

**INSTRUCTIONS  
TO  
BIDDERS**

**FORT INDIANTOWN GAP  
ANNVILLE, PENNSYLVANIA**

**2019 Edition**

# TABLE OF CONTENTS

<u>SECTIONS</u>	<u>PAGE NO.</u>
1. BID SUBMISSIONS	1
2. WORK TO BE PERFORMED	1
3. FAMILIARITY WITH PROPOSED WORK	1
4. INTERPRETATION OF CONTRACT DOCUMENTS	1
5. SUBMISSION/SIGNING OF BIDS	1
6. AWARD TO A DOMESTIC AND FOREIGN BUSINESS	2
7. WITHDRAWAL OR MODIFICATION OF A SUBMITTED BID PRIOR TO BID OPENING	2
8. BID OPENING PROCEDURE	2
9. REJECTION OF BID	2
10. WITHDRAWAL OF BIDS AFTER BID OPENING	2
11. EXPERIENCE QUESTIONNAIRE & FINANCIAL STATEMENT PROVIDED ON REQUEST	2
12. REFUSAL TO SUBMIT REQUESTED INFORMATION	3
13. COLLUSIVE BIDS WILL BE REJECTED	3
14. BID PROTEST PROCEDURE	3
15. BIDDER CERTIFIED NOT UNDER DEBARMENT	4
16. SUBCONTRACT WITH DEBARRED OR SUSPENDED FIRM	4
17. REIMBURSEMENT OF COSTS OF INSPECTOR GENERAL INVESTIGATION	4
18. CURRENT LIST OF SUSPENDED AND DEBARRED CONTRACTORS	4
19. ASSIGNMENT OF ANTITRUST CLAIMS	4

<u>SECTIONS</u>	<u>PAGE NO.</u>
20. NONDISCRIMINATION//SEXUAL HARASSMENT	4
21. CONTRACTOR INTEGRITY PROVISIONS	4
22. CONTRACTOR RESPONSIBILITY PROVISIONS	4
23. AMERICANS WITH DISABILITIES ACT	5
24. ENHANCED MINIMUM WAGE PROVISION	5
25. OFFSET PROVISION	5
26. PROJECT WAGES	5
27. STEEL PRODUCTS PROCUREMENT ACT	5
28. PRODUCT DISCRIMINATION	5-6
29. SMALL DIVERSE BUSINESS PARTICIPATION	7-10
30. PRE-AWARD OF CONTRACT	11
31. AWARD OF CONTRACT	11
32. EXECUTION OF CONTRACT, SMALL DIVERSE BUSINESS PARTICIPATION, BOND, AND RETURN OF INSURANCE CERTIFICATES	11
33. FAILURE TO EXECUTE CONTRACT	12
34. PROOF OF SURETY'S RESPONSIBILITY ON CONTRACT BOND	12
35. REINSURANCE	12
36. VETERAN'S PREFERENCE	12
37. SMALL BUSINESS SUPPLIER PREFERENCE	12
38. ENVIRONMENTAL STATEMENT	12
39. APPLICABLE LAWS	13-19
Appendix A NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE	20
Appendix B CONTRACTOR INTEGRITY PROVISIONS	21
Appendix C CONTRACTOR RESPONSIBILITY PROVISION	24
Appendix D AMERICANS WITH DISABILITIES ACT	25
Appendix E ENHANCED MINIMUM WAGE PROVISION	26



**FAILURE TO COMPLY WITH THESE INSTRUCTIONS MAY RESULT IN THE  
REJECTION OF THE BID AS NOT RESPONSIVE.**

**SECTION 1. BID SUBMISSIONS.** To improve productivity and efficiency, and to streamline the process of construction management bidders are required to access the advertisement located in PA e-marketplace at [www.emarketplace.state.pa.us](http://www.emarketplace.state.pa.us).

**SECTION 2. WORK TO BE PERFORMED.** The work to be performed is described in the Contract Documents.

**SECTION 3. FAMILIARITY WITH PROPOSED WORK.** The Bidder is responsible for examining the nature and location of the work, the conformation of the ground, the soil and rock conditions, and the character, quality, and quantity of the materials that will be required. The Bidder shall also examine the proposed Contract Documents, including the plans, specifications, the General Conditions, Special Conditions (if applicable), Administrative Procedures, and all other documents and data pertaining to the Project. After the award of the contract, the Contractor may not submit any claim alleging insufficient data, incorrectly assumed conditions, or misunderstanding with regard to matters for which no such clarification was sought during the bidding phase of the Project, as described further in the General Conditions of the Construction contract.

**SECTION 4. INTERPRETATION OF CONTRACT DOCUMENTS.**

- A. Questions during the bid stage **shall be submitted electronically** to the Contracting Officer. All questions related to the proposed work or proposed Contract Documents must be submitted **no later than close of business ten (10) days prior to the Bid Opening Date**. Only questions received no later than ten (10) days prior to the date fixed for the opening of bids will be considered by the Department. If a question is submitted within 10 days of the Bid Opening Date, the Department may, in its sole discretion, answer the question.
- B. **NEITHER THE DEPARTMENT, THE PROFESSIONAL, NOR ANY REPRESENTATIVE OF THE CLIENT AGENCY SHOULD BE ASKED TO PROVIDE ANY ORAL OR WRITTEN INTERPRETATION TO ANY BIDDER REGARDING INTERPRETATION OF THE CONTRACT DOCUMENTS. ANY CONVERSATION OR WRITING BETWEEN A BIDDER AND EITHER THE DEPARTMENT, THE PROFESSIONAL, OR THE REPRESENTATIVE OF THE CLIENT AGENCY FOR WHOM THE PROJECT IS BEING CONSTRUCTED, SHOULD NOT BE RELIED UPON BY ANY BIDDER, IS NOT BINDING UPON THE DEPARTMENT, AND SHALL NOT BECOME PART OF THE CONTRACT DOCUMENTS UNLESS THE INFORMATION SUBSEQUENTLY APPEARS IN AN ADDENDUM or FLYER ISSUED BY THE DEPARTMENT.**
- C. The Department's response to any Question will be in the form of an Addendum and posted in eMarketplace. All Bidders that have created a user profile will be notified as addenda are issued. All Bidders are responsible for monitoring eMarketplace for addenda that are issued. **If an addenda is issued prior to the bid opening, but after the Bidder submitted its bid, the Bidder will need to resubmit its bid prior to the bid opening date and time.** All addenda become a part of the Contract Documents and all Bidders on any portion of the contract for the Project are bound by all addenda issued on the Project. The Bidder will be required to acknowledge all addenda prior to submitting a bid.

**SECTION 5. SUBMISSION/SIGNING OF BIDS.** All bids shall be submitted prior to the date and time scheduled for the bid opening. Only timely submissions will be accepted by the Department. **Paper, E-mail, fax or any other type of delivery of bid submissions will not be accepted by the Department and will be returned to sender.** If you have any problems with [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us), please call the Help Desk at 877-435-7363 for help to submit your bid.

- A. **Base Bids.** All base bids will be considered separate and distinct bids. If a base bid is left blank or a zero (0) is present, the Department will interpret this to mean that the Bidder did not submit a bid on that base bid, but this will not invalidate any remaining base bids.

**SECTION 6. AWARD TO A DOMESTIC AND FOREIGN BUSINESS.**

- A. No contract will be awarded to a domestic business unless the Bidder has complied with, or agreed to comply with, the registration requirements under the Business Corporation Law of 1988 (15 Pa. C.S. §1101-§4131) and/or the Pennsylvania Uniform Partnership Act of 2016 (15 Pa. C.S. §8411-§8486), and/or the Pennsylvania Uniform Limited Partnership Act of 2016 (15 Pa. C.S. §8611-§8695), and/or the Pennsylvania Uniform Limited Liability Company Act of 2016 (15 Pa. C.S. §8811-§8898), and/or the Fictitious Names Act (54 Pa. C.S. §301-§332).
- B. No contract will be awarded to a Bidder which is a foreign business unless the Bidder has complied with or agreed to comply with Chapter 4 (relating to Foreign Associations) of Title 15 Corporations and Unincorporated Associations (15 Pa. C.S. §402-§419).

**SECTION 7. WITHDRAWAL OR MODIFICATION OF A SUBMITTED BID PRIOR TO BID OPENING.**

- A. **Complete Withdrawal Before Bid Opening Date and Time.** For a bid to be withdrawn before the date and time of bid opening, the Bidder must submit this request electronically in writing to the Contracting Officer.
- B. **Modification of a Bid Before Bid Opening Date and Time.** If, before the date and time of bid opening, a Bidder wishes to modify its bid already submitted, the Bidder must re-submit a bid with the modified amounts, indicate it replaces the original bid and clearly identify the updated bid. If the modified bid is not submitted, the previous bids are still effective.

**SECTION 8. BID OPENING PROCEDURE.** Bids will be opened by two (2) representatives of the Department at the date and time designated in the Notice, or as close after this time as reasonably possible. The Department will not, under any circumstances, open a bid before the Bid Opening Date and time. The Bid Opening is open to the public. The amount of each bid, together with the name of each Bidder will be recorded under a Bid Tabulation sheet. The Bid Tabulation shall be considered unofficial and shall be open to public inspection. The Bid Tabulation, listing the Bidders and their bid amount, will be available and posted to the Department's publicly accessible website within two (2) calendar days of the Bid Opening.

**SECTION 9. REJECTION OF BID.** The Department reserves the right to reject any or all bids or parts thereof. A bid may be rejected if it shows any omission, alterations of Form, scope of work, additions or deductions not called for, conditional language or uninvited alternate bids, or irregularities of any kind. The Department reserves the right, however, to waive technical defects or irregularities on bids. The Department may reject the bid of any Bidder failing to meet the requirements of these Instructions to Bidders or any other requirements of Bidders set forth in the Contract Documents. The reasons for rejection will appear next to the Bidder's name on the Bid Tabulation.

**SECTION 10. WITHDRAWAL OF BIDS AFTER BID OPENING.** Within three (3) days after the opening of the bids, but before award, a Bidder may request permission to withdraw its entire bid or a particular base bid if it submits a request in writing to the Contracting Officer. With the request for withdrawal, the Bidder must submit evidence that the reason for withdrawal is a clerical mistake, as opposed to a judgment mistake, and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of its bid. The evidence should be attached to the e-mail at the time the request is submitted.

**SECTION 11. EXPERIENCE QUESTIONNAIRE AND FINANCIAL STATEMENT PROVIDED ON REQUEST.** At the Department's request, or if specifically required by the Invitation to Bid, Bidders shall attach an experience questionnaire and financial statement with the Department on the Form provided by the Department in the Supporting Documentation tab in the Invitation to Bid for the Project. The questionnaire and statement shall be certified to be true and correct by an affidavit sworn to or affirmed before a Notary Public, or other officer empowered to administer oaths or affirmations.

Falsification of any requested information shall result in a rejection of the bid as not responsible and/or cancellation of the Contract Award.

**SECTION 12. REFUSAL TO SUBMIT REQUESTED INFORMATION.** If the Bidder fails, refuses, or neglects to submit any requested information within the time stated in any request, the Bidder will fail to qualify as a responsible Bidder and its bid shall be rejected as not responsible and/or its Contract Award will be rescinded. Such event may result in the Bidder being entered into the Contractor Responsibility Program.

**SECTION 13. COLLUSIVE BIDS WILL BE REJECTED.** The bids of any Bidder or Bidders, who engage in collusive bidding or bid-rigging, as discussed in the Antibid-Rigging Act, will be rejected. 62 Pa. C.S. §§ 4501 – 4509. Any Bidder who commits a prohibited act under the Antibid-Rigging Act will be prosecuted to the fullest extent of the law

**SECTION 14. BID PROTEST PROCEDURE.** The Commonwealth Procurement Code (62 Pa. C.S. §1711.1, as amended) governs the protest procedure, which is summarized below. In the event that this general description conflicts with the statute, the statutory language controls.

**A. Who may File.** Any Bidder or Prospective Bidder who is aggrieved in connection with the bid or the award of a contract resulting from the bid may file a protest.

1. "Prospective Bidder" is defined as an entity that has not submitted a bid in response to the Notice to Bidders.
2. "Bidder" is defined as an entity that has submitted a bid in response to the Notice to Bidders.

**B. Time Limits.**

1. If a protest is filed by a Prospective Bidder, a protest must be filed prior to the Bid Opening Date and time established in the Notice to Bidders by either e-mail or regular mail.
  - i. **E-MAIL.** Prospective Bidders may submit a Protest via e-mail. The Protest, along with any supporting documentation, must be e-mailed, to the Contracting Officer.
  - ii. **MAIL.** Prospective Bidders may file a protest, in writing, with the Contracting Officer, Department of Military and Veterans Affairs, Building 0-47, Fort Indiantown Gap, Annville, PA 17003.
2. If a protest is filed by a Bidder, the protest must be filed within seven (7) days after the protesting Bidder knew or should have known of the facts giving rise to the protest, **except** in no event may a protest be filed later than 7 days after the Bid Tabulation is available and posted to the DMVA website. Bidders must file protests by either:
  - i. **E-MAIL.**
  - ii. **MAIL.**
3. "Filed" is defined as the date upon which the Department receives the written protest.
4. If the Bidder fails to file/submit a bid protest or files/submits an untimely protest, then the Bidder shall be deemed to have waived the right to protest the solicitation or award of the contract in any forum. Untimely protests will be disregarded by the Department.

**C.** The Department may cancel an Invitation for Bids or may reject all bids at any time prior to the time a contract is executed by all parties when it is in the best interests of the

Commonwealth. The Bidder may not submit a protest relating to cancellation of the bid or rejection of all bids.

D. A protest shall state all grounds upon which the protestant asserts that the solicitation or award of the contract was improper. The protestant may submit with the protest any documents or information it deems relevant to the protest.

E. The full text of the Bid Protest Procedure can be found at 62 Pa. C.S §1711.1 *et seq.*

**SECTION 15. BIDDER CERTIFIED NOT UNDER DEBARMENT.** The Bidder must certify that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government; if the Bidder cannot so certify, then the Bidder shall submit, along with the bid, a written explanation of why such certification cannot be made. Written explanations, if provided, should be attached to the Supporting Documents Tab under the Invitation to Bid for the Project.

**SECTION 16. SUBCONTRACT WITH DEBARRED OR SUSPENDED FIRM.** If the successful Bidder enters into subcontracts, or employs any subcontractors/individuals who are currently suspended or debarred by the Commonwealth or the federal government, or who become suspended or debarred by the Commonwealth or federal government during the term of the contract, or any extensions or renewals thereof, the Commonwealth shall have the right to require the Contractor to terminate such subcontracts or employment.

**SECTION 17. REIMBURSEMENT OF COSTS OF INSPECTOR GENERAL INVESTIGATION.** The Bidder/Contractor shall reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Bidder's/Contractor's compliance with the terms of the contract, or any other agreement between the Bidder's/Contractor and the Commonwealth, which result in the suspension or debarment of the Bidder's/Contractor. Such costs shall include, but are not limited to, the salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Bidder's/Contractor shall not be responsible for investigative costs for investigations which do not result in the Bidder's/Contractor's suspension or debarment.

**SECTION 18. CURRENT LIST OF SUSPENDED AND DEBARRED CONTRACTORS.** The Bidder/Contractor may obtain the current list of suspended and debarred Contractors by referring to the Department's website.

**SECTION 19. ASSIGNMENT OF ANTITRUST CLAIMS.** The successful Bidder/Contractor and the Commonwealth recognize that, in actual economic practice, overcharges by the successful Bidder's/Contractor's suppliers, resulting from the violations of State or Federal antitrust laws, are, in fact, borne by the Commonwealth. As part of the consideration for the award of the contract, and, intending to be legally bound, the successful Bidder/Contractor assigns to the Commonwealth all right, title and interest in, and to, any claims Contractor now has, or may hereafter acquire, under State or Federal antitrust laws relating to the goods or services, which are the subject of this contract.

**SECTION 20. NONDISCRIMINATION/SEXUAL HARASSMENT.** The successful Bidder/Contractor shall comply with all applicable provisions of state and federal constitutions, laws, regulations, and judicial orders pertaining to nondiscrimination, sexual harassment, and equal employment opportunity, including the provisions of the Nondiscrimination/Sexual Harassment Clause, which is attached hereto as Appendix A.

**SECTION 21. CONTRACTOR INTEGRITY PROVISIONS.** The successful Bidder/Contractor shall comply with the Integrity Provisions, which are attached hereto as Appendix B.

**SECTION 22. CONTRACTOR RESPONSIBILITY PROVISIONS.** All Bidders and the successful Bidder/Contractor shall comply with the Responsibility Provisions, which are attached hereto as Appendix C.



**SECTION 23. AMERICANS WITH DISABILITIES ACT.** The successful Bidder/Contractor shall comply with The Americans with Disabilities Act Provisions, which are attached hereto as Appendix D.

**SECTION 24. ENHANCED MINIMUM WAGE PROVISIONS.** The successful Bidder/Contractor shall comply with the Enhanced Minimum Wage Provisions, which are attached hereto as Appendix E.

**SECTION 25. OFFSET PROVISION.** The successful Bidder/Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the successful Bidder to the Commonwealth against any payments due the successful Bidder/Contractor under any contract with the Commonwealth.

**SECTION 26. PROJECT WAGES.** The successful Bidder/Contractor shall comply with the provisions, duties, obligations, remedies, and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. §§ 165-1 et seq., which is incorporated herein by reference. To the extent that the Project has federal funds involved, the Davis-Bacon Act may apply. **THE DAVIS BACON ACT APPLIES TO THIS PROJECT.**

**SECTION 27. STEEL PRODUCTS PROCUREMENT ACT.** The successful Bidder/Contractor agrees to comply with the provisions of the Steel Products Procurement Act of March 3, 1978, P.L. 6, as amended (73 P.S. §1881 et seq.). Information regarding the Act's requirements, including a list of exempt products, is available on the Department's web site at <http://www.dgs.pa.gov/Businesses/Design-and-Construction/Steel-Products-Act-Exemptions/Pages/default.aspx>.

**SECTION 28. PRODUCT DISCRIMINATION.** Successful Bidders agree to comply with the following Acts regarding Product Discrimination:

**A. Reciprocal Limitation Act.**

1. Background Requirements of the Reciprocal Limitations Act. The Act (62 Pa.C.S. (2008 Sup.) § 107) requires the Department:
  - i. In the award of contracts exceeding \$10,000 for the erection, construction, alteration, improvement, or repair of any building or other public work, or the purchase or lease of any goods, supplies, equipment, printing, or materials, to give resident Bidders a preference against a nonresident Bidder from any state that gives or requires a preference to Bidders from that state. The amount of the preference shall be equal to the amount of the preference applied by the state of the nonresident Bidder. A resident Bidder is a person, partnership, or corporation or other business entity authorized to transact business in Pennsylvania and having a bona fide establishment for transacting business within Pennsylvania at which it was transacting business on the date when bids for the public contract were first solicited.
  - ii. In the erection, construction, alteration, improvement, or repair of any public building or other public work, and in all purchases of goods, supplies, equipment, printing, or materials, not to specify, use or purchase any goods, supplies, equipment, printing, or materials which are produced, manufactured, mined, grown, or performed in any state that prohibits the specification for, use, or purchase of such items in or on its public building or other works, when such items are not produced, manufactured, mined, grown, or performed in such state.
2. **List of Discriminating States.**
  - i. States which apply preference favoring in-state Bidders and the amount of such preference (that may affect this contract), as found by the Department.

<u>STATE</u>	<u>PREFERENCE</u>
Arizona	5% (construction materials from Arizona resident dealers only)

Montana	3%
West Virginia	2.5% for construction, repair or improvements of any buildings
Wyoming	5%

ii. **States which prohibit the use of out-of-state goods, supplies, equipment, materials, or printing and the prohibition (that may effect this contract), as found by the Department.**

<u>STATE</u>	<u>PREFERENCE</u>
Georgia	Forest products only
Indiana	Coal
New Jersey	For Bidders for the following items: major household appliances, chain link fence, portable sanitation units, glass, glazier supplies, storage batteries, carpet and cushion, shades, room air conditioning, electrical supplies, plumbing supplies, hardware supplies, fasteners, lumber, building supplies, audio-visual/video equipment, fire extinguishers, fire hose, motor oils, fuel oil, photographic supplies, Venetian blinds, drapes, paper towel dispensers, water hose
New Mexico	Construction

3. Calculations of Preference.

- i. In calculating the preference, the amount of a bid submitted by a Pennsylvania Bidder shall be reduced by the percentage preference which would be given to a nonresident Bidder by its state of residence. Similarly, the amount of a bid offering Pennsylvania goods, supplies, equipment, materials, and printing shall be reduced by the percentage preference which would be given to another Bidder by the state where the goods, supplies, equipment, materials, or printing are produced, manufactured, mined, grown, or performed.

**B. Trade Practices Act.**

In accordance with the Trade Practices Act (71 P.S. §773.101 *et seq.*) the successful Bidder/Contractor shall not use, or permit to be used, in the work, any aluminum or steel products made in a foreign country that discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Brazil, South Korea, Spain, and Argentina have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted for a Project. Penalties for violation of this paragraph may be found in the Trade Practices Act. Penalties include becoming ineligible for award of any Public Works contracts for a period of three years.

- 1. **Brazil:** Welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel products, including hot-rolled stainless steel bar; stainless steel wire rod and cold-formed stainless steel bar; pre-stressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet and cold-rolled carbon steel sheet.
- 2. **Spain:** Certain stainless steel products, including stainless steel wire

rod; hot-rolled stainless steel bars and cold-formed stainless steel bars; pre-stressed concrete steel wire strand; certain steel products, including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet; hot-rolled carbon steel bars and cold-formed carbon steel bars.

- 3. **South Korea:** Welded carbon steel pipes and tubes; hot-rolled carbon steel plate and hot-rolled carbon steel sheet; and galvanized steel sheet.
- 4. **Argentina:** Carbon steel wire rod and cold-rolled carbon steel sheet.

**SECTION 29.      SMALL DIVERSE BUSINESS PARTICIPATION**

**A. Overview - Minimum Participation Level.**

- 1. The Department has established one minimum participation level (MPL) for utilization of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Veteran Business Enterprises (VBEs), Service-Disabled Veteran Business Enterprises (SDVBEs), Disability-Owned Business Enterprise (DOBE), and LGBT Business Enterprise (LGBTBE) (together referred to hereinafter as Small Diverse Businesses) subcontractors, manufacturers, and suppliers for this Project. This Small Diverse Business Participation (MPLs) applies when the amount bid exceeds \$50,000.
  - i. The MPL for each Prime Contractor is set forth in the Notice to Bidders in the following Form:

	General Construction	MPL
.1		7.5%
.2	HVAC	7.5%
.3	Plumbing	7.5%
.4	Electrical	7.5%

- 2. If the Bidder is a Small Diverse Business firm, DGS will not credit the value of the Bidder’s contract toward meeting the MPLs. All Bidders (including Bidders which are SDB) are required to comply with these Instructions to Bidders regarding Small Diverse Business Participation.
- 3. Bidders are not required to submit a Form regarding the MPL or solicitation efforts with the Bid Package.
- 4. The Administrative Procedures, which are included in the Contract Documents, have a chapter titled “Small Diverse Business Participation.” Should there be any conflict between these Instructions to Bidders and the Administrative Procedures, the Administrative Procedures govern.
- 5. Upon Notice of Award, the successful Bidder shall have the option of choosing to “Opt-in” or creating and maintaining documentation on its “Good Faith Effort” to meet the Project’s MPL. (See: subsection B(1) below). The successful Bidder/Contractor will have the full duration of its contract to meet the MPL.
- 6. The successful Bidder’s/Contractor’s commitments toward the MPL will be calculated and credited as follows:
  - i. **ONLY DGS-CERTIFIED SMALL DIVERSE BUSINESSES SHALL BE USED TO CALCULATE THE CONTRACTOR’S COMMITMENTS TO THE MPL.**

- ii. A contractor's Small Diverse Business participation level is calculated by adding all dollar commitments to DGS-certified Small Diverse Business subcontractors of all tiers, DGS-certified Small Diverse Business manufacturers, and DGS-certified Small Diverse Business suppliers, and dividing that total amount by the total contract award price. Small Diverse Business dollar commitments will not be double counted (see Section 5(vii) below).
- iii. Small Diverse Business subcontractors performing at least sixty percent of the subcontract with their own employees will be credited toward the MPL at 100 percent of the total dollar value of the subcontract/supply contract. Any Small Diverse Business subcontract, where the subcontractor performs less than 60 percent of the subcontract, will not be credited toward the MPL.
- iv. Small Diverse Business stocking suppliers are credited at 60 percent of the total cost of the materials or supplies purchased. A stocking supplier is a regular dealer that owns, operates, or maintains a store, warehouse, or other establishment, in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
- v. Small Diverse Business nonstocking suppliers are credited at only the amount of the fee or commission charged by the Small Diverse Business nonstocking supplier for assistance in the procurement of the materials and supplies, provided that the fees or commissions are reasonable and not excessive as compared with fees customarily allowed for similar services, and with the understanding that under no circumstances shall the credit for a Small Diverse Business nonstocking supplier exceed 10 percent of the purchase order cost. A nonstocking supplier does not carry inventory but orders materials from a manufacturer, manufacturer's representative, or a stocking supplier. In order for a nonstocking supplier to receive credit, it must perform a useful business function by engaging in meaningful work (i.e., negotiating price; AND determining quality and quantity; AND ordering materials; AND paying for the materials) and the fee or commission must be provided with the purchase order and the Small Diverse Business Utilization Report. Industry practices and other relevant factors will be considered.
- vi. Small Diverse Business manufacturers are credited at 100 percent of the total cost of the materials or supplies purchased.
- vii. All Small Diverse Business participation shall include all tiers of design and/or construction.
  - 1. The contractor is allowed to use contract amounts at any tier of supply or subcontracting provided that the Small Diverse Business is the initial Small Diverse Business firm in the organizational hierarchy. Therefore, if the contractor or any of its non-Small Diverse Business Subcontractors or Suppliers makes a commitment to a Small Diverse Business, the credit for the subcontract/purchase order commitment, regardless of the level or tier, shall be calculated as indicated in Section 5 and credited toward the contractor's Minimum Participation Level.
  - 2. The dollar value of any commitment to a Small Diverse Business cannot be double counted. In the event that the Small Diverse Business, whose entire subcontract value is counted towards the contractor's Participation Level, then subcontracts a portion of the work or supplies associated with this subcontract to another Small Diverse Business, the dollar value of the subcontract with/to this lower tier Small Diverse Business is NOT counted in the contractor's Participation Level in order to prevent the

duplicate counting of Small Diverse Business commitment dollars. In this case, the dollar value of this subsequent Small Diverse Business subcontract has already been included within the scope of work and dollar value of the Small Diverse Business commitment already counted as a part of the contractor's Participation Level.

**B. Upon Notice of Award.**

1. The successful Bidder shall, upon Notice of Award and receipt of the Construction Contract, determine whether to choose "opt-in" or to provide "Good Faith Effort" documentation of its efforts to meet the MPL by initialing the appropriate selection in Article 9 of the Construction Contract. (See Administrative Procedures for further information.)
  - i. Opt-in – A successful Bidder selecting "Opt-in" agrees to meet or exceed the Project's MPL by the time of the Close-Out Inspection of the project.
  - ii. Good Faith Effort – A successful Bidder selecting "Good Faith Effort" agrees to document its use of reasonable efforts to identify, solicit, and secure commitments with Small Diverse Businesses on all subcontractors, manufacturers, and suppliers greater than \$10,000 throughout the duration of the Project.
2. Article 9 of the Construction Contract lists both "Opt-in" and the "Good Faith Effort" options. The successful Bidder shall select and initial the option of their choice. Failure to select an option will be deemed an incomplete contract, and DGS may consider this a failure to execute the contract. (See Sections 31 and 32.)

**C. Upon Contract Execution.**

1. If Opt-in was selected, the contractor has until the time of Close-Out Inspection to meet or exceed the MPL for the Project. This will be tracked through the Small Diverse Business Utilization Report submitted with each Application for Payment.
2. If the Good Faith Effort was selected, the contractor must create and maintain documentation of its reasonable efforts to identify, solicit, and secure commitments with Small Diverse Businesses on all subcontractors and suppliers greater than \$10,000 throughout the duration of the Project. At a minimum, such documentation shall include the following ("Good Faith Effort documentation"):
  - i. A certification that the contractor accessed the DGS web site database of DGS-certified Small Diverse Businesses to identify DGS-certified Small Diverse Businesses for the subcontract or purchase order.
  - ii. A record of all companies solicited for the subcontract or purchase order that can perform the scope of work to be subcontracted, or supply to be delivered, identifying any DGS-certified Small Diverse Businesses. If a subcontractor is not properly licensed, or otherwise capable, of performing the scope of work, they are not eligible to receive the subcontract. (A painting subcontractor, for example, may not be eligible to receive a subcontract to perform electrical work.)
  - iii. A record of all quotes received showing company name and address, contact person, telephone number, Small Diverse Business status, subcontractor, manufacturer, or supplier, scope of work to be performed, or supply to be delivered, and the amount of the quote and identification of the selected subcontractor/manufacturer/supplier.

- iv. A certification that the Contractor negotiated fairly with responsive DGS-certified Small Diverse Businesses and, if commitments were not made, that such non-commitment related to the Small Diverse Business' capability or price.

Upon notice from DGS, the contractor will be required to submit, within ten (10) calendar days from the date such notice is received, the above Good Faith Effort documentation for review and compliance. Failure to submit such documents within the timeframe provided will result in a non-compliance entry into the Commonwealth's Contractor Responsibility Program and may be considered a substantial breach of the contract, as determined by the Department.

**3. Small Diverse Business Utilization Report**

- i. The contractor, regardless of the option it selects, shall submit a Small Diverse Business Utilization Report with each Application for Payment. Each Small Diverse Business Utilization Report must have current data (totals to date) identifying at least each element as follows:

- 1. Detailed information, including but not limited to, any subcontracts and purchase orders documenting the dollar value commitments, commission, or fees to Small Diverse Business firms to be used toward the satisfaction of the Project's MPL. All Small Diverse Businesses identified on the Utilization Report shall be retained on the Utilization Report throughout the duration of the Project.
- 2. Detailed information regarding any work that is claimed to be self-performed by the contractor and therefore, allegedly not eligible for subcontracting to a Small Diverse Business.

**3. Construction Subcontracts and Purchase Orders:**

- a. All Subcontract/Purchase Orders awarded to date are \$\_\_\_\_\_
- b. Commitments to Small Diverse Businesses totals to date:
  - i. \$ \_\_\_\_\_(dollars)
  - ii. % \_\_\_\_\_(percentage)
- c. For each Small Diverse Business subcontract and purchase order awarded since the previous Application for Payment, the:
  - i. Identification and status of the Small Diverse Business as a MBE/WBE/VBE/SDVBE that will be performing the work; and
  - ii. The type of work, service, or material to be performed/supplied; and
  - iii. The amount paid to date on each Small Diverse Business subcontract/purchase order this month; and
  - iv. The designation of Small Diverse Business stocking suppliers as either an MEP (i.e., mechanical, electrical, and plumbing) stocking suppliers or a General Construction stocking supplier; and
  - v. The fee or commission paid to the nonstocking supplier. No MPL credit will be given if the fee or commission is not listed, and the maximum credit shall not exceed 10 percent of the purchase order cost.

- ii. Failure to submit a Small Diverse Business Utilization Report with each Application for Payment will result in an incomplete Application for Payment and it being returned to the contractor. An incomplete Application for Payment will not be processed.

#### **D. Resources.**

1. The Department is available for technical assistance to all Bidders submitting bids for this contract. Department certification of an entity as a Small Diverse Business means only that the applicant for certification has submitted information that qualifies it as a Small Diverse Business in terms of its ownership and control. It does not imply, and no Bidder shall infer, that the Department has in any way investigated or approved the entity's competence to perform work.
2. Contact the Bureau of Small Business Opportunities at (717) 783-3119.  
Bureau of Small Business Opportunities  
611 North Office Building  
Harrisburg, Pennsylvania 17125

**SECTION 30. PRE-AWARD OF CONTRACT.** Once DMVA determines the apparent lowest responsible bidder, the Bidder must comply with the Public Works Employment Verification Act, 43 P.S. §§ 167.1-167.11, by submitting to the Department a Commonwealth Public Works Verification Form ("Form") prior to the award of the contract. The Bidder shall within five (5) days after receipt of notice to provide the Form, send the Form to the Contracting Officer. Failure or refusal to provide the Form will be considered a refusal to comply with the bidding requirements, result in rejection of the bid, and the Bidder may be entered into the Contractor Responsibility Program.

The Form and relevant information are located on the DGS web page at [www.dgs.state.pa.us](http://www.dgs.state.pa.us).

**SECTION 31. AWARD OF CONTRACT.** If DMVA awards a contract, it will be made to the lowest responsible Bidder within sixty (60) days from the Bid Opening Date. This 60-day period may be extended by written consent of the lowest responsible Bidder(s). If the lowest Bidder is allowed to withdraw its bid, declines to extend the bid, or refuses the Award of Contract, the Department may award the contract to the next lowest responsible Bidder or reject all bids and re-bid the contract. **There will be no contract with the Department until all parties have fully executed the contract.**

- A. **Letter of Intent to Contract** – The Department may, in its sole discretion on particular Projects, elect to issue a binding Letter of Intent To Contract. An apparent low bidder who receives a Letter of Intent may rely upon the Letter to start the scope of off-site activities described in the Letter and to incur costs in preparation of the performance of the contract.

**SECTION 32. EXECUTION OF CONTRACT, SMALL DIVERSE BUSINESS PARTICIPATION, BOND, AND RETURN OF INSURANCE CERTIFICATES.** Within ten (10) days after receipt of the contract, the successful Bidder, must:

- A. Select the Small Diverse Business Participation MPL option in Article 9 of the contract; and
- B. Download, sign and return the contract to the Contracting Officer; and
  1. The contract must be signed by a senior corporate officer Chairperson, President, Vice President, Senior Vice President, Executive Vice President, Assistant Vice President, Chief Executive Officer, and Chief Operating Officer. If another person signs the contract, then evidence of that person's authority to sign the contract on the corporation's behalf must accompany the contract. This evidence can be in the form of a corporate resolution, an internal corporate delegation document, or a letter from one of the senior officers or the Secretary, authorizing the signatory to sign on behalf of the corporation. The letter must be on a corporate letterhead.

- C. Sign and return the Contract Bond, or Bonds in the penal sum equal to the amount of the awarded contract for the faithful performance of the contract, and to cover the prompt payment in full for all materials furnished and labor supplied or performed and equipment actually rented (but not sold.) The Bond, or Bonds, must be executed by a surety company or companies licensed to do business in Pennsylvania; and,
- D. Sign and return all insurance certificates required by the General Conditions and/or Special Conditions to the contract.
- E. Mail the original signed contract, Contract Bond(s), insurance certificates, and any evidence of signature authority to the Department of Military and Veterans Affairs, Contracting Officer for verification by the Department.
- F. After all Commonwealth signatures (handwritten or electronic) are obtained, and the contract is fully executed, the Department will forward a notification.
- G. Understand and agree that a stamped "APPROVED ELECTRONICALLY" or similar wording by the Commonwealth on the contract signature page constitutes a valid, binding contract with the Commonwealth and represents that all approvals required by Commonwealth contracting procedures have been obtained. The fully executed contract may not contain "ink" signatures by the Commonwealth.

**SECTION 33. FAILURE TO EXECUTE CONTRACT.** Failure or refusal of the successful Bidder to accept the Award of Contract or properly execute the Contract Documents, including selecting an MPL option in Article 9 and/or to furnish the required Contract Bond, and/or to furnish the required insurance certificates within the 10-day time, will be viewed as a refusal to accept the Award. In the event any of these documents are not provided as required by Section 32 of these Instructions, the successful bidder shall be entered into the Contractor Responsibility Program.

If the successful Bidder fails to execute the Contract Documents and provide the original documents as required, the Department may award the contract to the next lowest responsible Bidder, or reject all bids and re-bid the contract.

**SECTION 34. PROOF OF SURETY'S RESPONSIBILITY ON CONTRACT BOND.** The surety company, which is designated by the successful Bidder/Contractor for the faithful performance of the contract and prompt payment of materials, equipment, and labor, shall, with its Contract Bond, furnish to the Department a certificate showing that the amount of the Bond is within the limit of net retention, or evidence that appropriate reinsurance or other security has been obtained in conformance with Section 661 of the Pennsylvania Insurance Company Law of 1921 (40 P.S. § 832).

**SECTION 35. REINSURANCE.** If the surety has entered into an agreement for reinsurance under the foregoing paragraph, the Bond shall be supported by a duplicate original of the reinsurance agreement. The reinsurance agreement must contain a "direct liability to insured" clause, enabling the Department to maintain an action against the company reinsured jointly with the reinsurer, and, upon recovering judgment against such reinsured, to have recovery against such reinsurer, for payment to the extent to which it is liable under such reinsurance and in discharge thereof.

**SECTION 36. VETERAN'S PREFERENCE.** The Department strongly encourages that, all things being equal, Contractors give preference in employment on Projects of the Department to veterans of the Armed Services of the United States of America.

**SECTION 37. SMALL BUSINESS SUPPLIER PREFERENCE.** The Department strongly encourages that, all things being equal, Contractors give preference in material/equipment purchases on Projects of the Department to Small Business Suppliers.

**SECTION 38. ENVIRONMENTAL STATEMENT.** According to the Commonwealth Procurement Code, Act of May 15, 1998, P.L. 358, No. 57, 62 Pa. C.S. §§ 101-4509, all invitations for Bids and Requests for Bids for construction Projects issued by any government agency shall set forth any



provision of Federal and State statutes, rules, and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources that affect the Projects.

**SECTION 39. APPLICABLE LAWS.** The Bidder is hereby notified that this Project is subject to those statutes, rules and regulations shown on the following list and the work must be carried out in compliance with these statutes, rules and regulations. This listing does not represent the full listing of laws and regulations the Bidder and Awarded Contractor is required to comply with; the Awarded Contractor shall comply with all applicable local, state, federal laws, regulations and policies to include guidance on COVID-19 safety practices.

## **STATE LAW**

### **I. Purdon's Statutes - Title 3 (Agriculture)**

Fertilizer Act, Act of Dec. 13, 2001, 3 Pa. C.S.A. § 6701, et seq.

Soil and Plant Amendment Act, Act of Dec. 13, 2001, 3 Pa. C.S.A. § 6901, et seq.

PA Pesticide Control Act of 1973, Act of March 1, 1974 as amended, 3 P.S. § 111.21, et seq.

Agricultural Liming Materials Act, Act of March 17, 1978, as amended, 3 P.S. § 132-1, et seq.

The PA Plant Pest Act of 1992, Act of December 16, 1992 as amended, 3 P.S. § 258.1, et seq.

Noxious Weed Control Law, Act of April 7, as amended, 3 P.S. § 255.1, et seq.

Conservation District Law, Act of May 15, 1945 as amended, 3 P.S. § 849, et seq.

(Relating to weather modification), Act of January 19, 1968, as amended, 3 P.S. § 1101, et seq.

### **II. Purdon's Statutes - Title 16 (Counties)**

(Relating to land use), Act of January 13, 1966 as amended, 16 P.S. § 11941, et seq.

### **III. Purdon's Statutes - Title 18 (Crimes and Offenses)**

The Crimes Code, Act of December 6, 1972, as amended, 18 Pa. C.S.A. § 101, et seq.

### **IV. Purdon's Statutes - Title 24 (Education)**

Public School Code of 1949, Act of March 10, 1949, as amended, 24 P.S. § 7-731, et seq.

### **V. Purdon's Statutes - Title 30 (Fish)**

The Fish and Boat Code, Act of October 16, 1980, as amended, 30 Pa. C.S.A. § 101, et seq.

### **VI. Purdon's Statutes - Title 32 (Forests, Waters and State Parks)**

(Relating to water power and water supply permits), Act of June 14, 1923, as amended, 32 P.S. § 591, et seq.

Water Well Drillers License Act, Act of May 29, 1956, as amended, 32 P.S. § 645.1, et sec.

(Relating to Flood Control), Act of August 7, 1936, as amended, 32 P.S. § 653, et seq.

Flood Plain Management Act, Act of October 4, 1978, as amended, 32 P.S. § 679.101, et seq.

Storm Water Management Act, Act of October 4, 1978, as amended, 32 P.S. § 680.1, et seq.

Dam Safety and Encroachments Act, Act of November 26, 1978, as amended, 32 P.S. § 693.1, et seq.

(Relating to Stream Clearance), Act of June 5, 1947, as amended, 32 P.S. § 701, et seq.

(Relating to Potomac River Pollution), Act of May 29, 1945 (P.L. 1134, § 1), as amended, 32 P.S. 741 et seq. *Repealed in Part.* Section 4 of Act 1981, May 1, P.L. 22 No. 9, repeals this section to “the extent it required one of the members of the Interstate Commission on the Potomac River Basin to be a member of the Pennsylvania Commission on Interstate Cooperation.”

(Relating to Schuylkill River pollution), Act of June 4, 1945, as amend., 32 P.S. § 751.1, et seq.

(Relating to Delaware River pollution) Act of April 19, 1945 as amend. 32 P.S. § 815.31, et seq.

Delaware River Basin Compact, Act of July 7, 1961, as amended, 32 P.S. § 815.101, et seq.

Ohio River Valley Water Sanitation Compact, Act of April 2, 1945, as amended, 32 P.S. § 816.1, et seq.

Great Lakes Basin Compact, Act of March 22, 1956, as amended, 32 P.S. § 817.1, et seq.

Brandywine River Valley Compact, Act of September 9, 1959, as amend. 32 P.S. § 818, et seq.

Wheeling Creek Watershed Protection and Flood Prevention District Compact, Act of August 2, 1967, as amended, 32 P.S. § 819.1, et seq.

Susquehanna River Basin Compact, Act of July 17, 1968, as amended, 32 P.S. § 820.1, et seq.

Chesapeake Bay Comm. Agreement, Act of June 25, 1985, as amended, 32 P.S. § 820.11, et seq.

(Relating to Preservation and Acquisition of Land for Open Space Uses), Act of January 19, 1968, as amended, 32 P.S. § 5001, et seq.

Land and Water Conservation and Reclamation Act, Act of January 19, 1968, § 2), as amended, 32 P.S. § 5101, et seq.

Bluff Recession and Setback Act, Act of May 13, 1980, as amended, 32 P.S. § 5201, et seq.

Wild Resource Conservation Act, Act of June 23, 1982, as amended, 32 P.S. § 5301, et seq.

#### **VII. Purdon's Statutes - Title 34 (Game)**

The Game and Wildlife Code, Act of July 8, 1986, as amended, 34 Pa. C.S.A. § 101, et seq.

#### **VIII. Purdon's Statutes - Title 35 (Health and Safety)**

(Related to public eating and drinking places), Act of May 23, 1945, as amended, 35 P.S. 655.1 et seq. *Repealed in Part.* Section 6(b) of Act 1994, repealed this section in so far as it is inconsistent with said act (3 Pa. C.S.A. § 6501, et seq.).

The Public Bathing Law, Act of June 23, 1931, as amended, 35 P.S. § 672, et seq.

(Related to the protection of public water supply), Act of June 22, 1937, as amended, 35 P.S. § 691.1, et seq.

PA Safe Drinking Water Act, Act of May 1, 1984, as amended, 35 P.S. § 721.1, et seq.

PA Sewage Facilities Act, Act of January 24, 1966 as amended, 35 P.S. § 750.1, et seq.  
Repealed in Part. Section 15 of Act 1990, July 1, repealed this section insofar as it relates to fee payments.

PA Solid Waste-Resource Recovery Development Act, Act of July 20, 1974, as amended, 35 P.S. § 755.1, et seq.

(Related to pollution from abandoned mines), Act of December 15, 1965 as amended, 35 P.S. § 760.1, et seq.

Low-Level Radioactive Waste Disposal Act, Act of February 9, 1988, as amended, 35 P.S. § 7130.101, et seq.

(Related to Camp Regulation), Act of November 10, 1959 as amended 35 P.S. § 3001, et seq.

Air Pollution Control Act, Act of January 8, 1960, as amended 35 P.S. § 4001, et seq.

Solid Waste Management Act, Act of July 7, 1980 as amended, 35 P.S. § 6018.101, et seq.  
*Repealed in Part.* Section 905(b) of Act 1988, Feb. 9, the Low-Level Radioactive Waste Disposal Act (35 P.S. § 7130.101, et seq.), repealed this section insofar as it is inconsistent with said act.

Radiation Protection Act, Act of July 10, 1984, as amended, 35 P.S. 7110.101, et seq. *Repealed in Part.* Section 17(b) of Act 1992, Dec. 18, provides that this section is repealed insofar as it is inconsistent with said act.

Worker and Community Right-to-Know Act, Act of October 5, 1984 as amended, 35 P.S. § 7301, et seq.

#### **IX. Purdon's Statutes - Title 36 (Highways and Bridges)**

State Highway Law, Act of June 1, 1945, as amended, 36 P.S. § 670-101, et seq. *Repealed in Part.* Section 4 of Act 1985, July 3, repealed this act insofar as it's inconsistent with said act.

Junkyards along Highways), Act of July 28, 1966, as amended, 36 P.S. § 2719.1, et seq.

Highway Vegetation Control Act of December 20, 1983 as amended, 36 P.S. § 2720.1, et seq.

#### **X. Purdon's Statutes – Title 37 APPENDIX (Historical & Museums)**

History Code, Act of May 26, 1988, as amd, 37 Pa. C.S.A. § 101, et seq.

#### **XI. Purdon's Statutes - Title 43 (Labor)**

(Related to General Safety), Act of May 18, 1937, as amended, 43 P.S. § 25-1, et seq.

Seasonal Farm Labor Act, Act of June 23, 1978, as amended, 43 P.S. § 1301.101, et seq.

#### **XII. Purdon's Statutes - Title 52 (Mines and Mining)**

The Coal Mine Sealing Act of 1947, Act of June 30, 1947, as amended, 52 P.S. § 28.1, et seq.

Coal Refuse Disposal Control Act of September 24, 1968, as amended, 52 P.S. § 30.51, et seq.

(Related to Coal Land Improvement), Act of July 19, 1965, as amended, 52 P.S. § 30.101, et seq.

(Related to Mine Fires & Subsidence), Act of April 3, 1968, as amd. 52 P.S. § 30.201, et seq.

PA Anthracite Coal Mine Act, Act of November 10, 1965 as amended, 52 P.S. § 70-101, et seq.

(Related to discharge of coal into streams), Act of June 27, 1913 as amended, 52 P.S. § 631, et seq.

(Caving-in, Collapse, Subsidence), Act of May 27, 1921, as amended, 52 P.S. §661, et seq.

(Related to Subsidence), Act of September 20, 1961 as amended, 52 P.S. § 672.1, et seq.

Anthracite Strip Mining and Conservation Act, Act of June 27, 1947 as amended, 52 P.S. § 681.1, et seq. Repealed in Part. Section 16 of Act 1971, Nov. 30, provided that this section repealed insofar as it is inconsistent with Act No. 147.

(Related to control and drainage of water from coal formations), Act of July 7, 1955 as amended, 52 P.S. § 682, et seq.

PA Bituminous Coal Mine Act, Act of July 17, 1961 as amended, 52 P.S. § 701-101, et seq.

(Related to Abandoned Mines), Act of May 7, 1935, as amended, 52 P.S. § 809, et seq.

(Related to maps and plans of mines), Act of June 15, 1911, as amended, 52 P.S. § 823.

Surface Mining Conservation and Reclamation Act, Act of May 31, 1945 as amended, 52 P.S. § 1396.1 et seq. Repealed in Part. Section 27 of Act 1984, Dec. 19, provides that, except as provided in § 3304 of this title, this section "is repealed to the extent that it applies to the surface mining of minerals other than bituminous and anthracite coal."

The Bituminous Mine Subsidence and Land Conservation Act, Act of April 27, 1966, as amended, 52 P.S. § 1406.1, et seq.

(Related to cave-in or subsidence of surface above mines), Act of July 2, 1937, as amended, 52 P.S. § 1407, et seq.

(Related to Coal Stripping), Act of June 18, 1941 as amended, 52 P.S. § 1471, et seq.

(Related to Coal under State Lands), Act of June 1, 1933 as amended, 52 P.S. § 1501, et seq.

(Related to Mining Safety Zones), Act of Dec. 22, 1959 as amended, 52 P.S. § 3101, et seq.

(Related to Coal Mine Subsidence Insurance Fund), Act of August 23, 1961 as amended, 52 P.S. § 3201, et seq.

Interstate Mining Compact, Act of May 5, 1966 as amended, 52 P.S. § 3251, et seq.

Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1984, as amended, 52 P.S. § 3301, et seq.

### **XIII. Purdon's Statutes - Title 58 (Oil and Gas)**

Oil and Gas Conservation Law, Act of July 25, 1961 as amended, 58 P.S. § 401, et seq.

PA Used Oil Recycling Act, Act of April 9, 1982, as amended, 58 P.S. § 471, et seq.

Coal & Gas Resource Coord. Act, Act of Dec. 18, 1984, as amended, 58 P.S. § 501, et seq.

Oil and Gas Act, Act of December 19, 1984, as amended, 58 P.S. § 601.101, et seq. Repealed in part. Section 4 of Act 1985, July 11, repealed this act insofar as inconsistent with said act.

### **XIV. Purdon's Statutes Title 63 (Professions and Occupations)**

Sewage Treatment Plant and Waterworks Operators' Certification Act, Act of November 18, 1968 as amended, 63 P.S. § 1001, et seq.

**XV. Purdon's Statutes - Title 64 (Public Lands)**

PA Appalachian Trail Act, Act of April 28, 1978, as amended, 64 P.S. § 801, et seq.

**XVI. Purdon's Statutes - Title 71 (State Government)**

The Administrative Code of 1929, Act of April 9, 1929 as amended, 71 P.S. § 51, et seq.

**XVII. Purdon's Statutes - Title 72 (Taxation and Fiscal Affairs)**

Project 70 Land Acquisition and Borrowing Act, Act of June 22, 1964 as amended, 72 P.S. § 3946.1, et seq.

(Related to pollution control services), Act of March 4, 1971 as amended, 72 P.S. § 7602.1, et seq.

**XVIII. Purdon's Statutes - Title 73 (Trade and Commerce)**

Infrastructure Development Act, Act of July 11, 1996, as amended, 73 P.S. § 393.21, et seq.

(Related to Explosives), Act of July 1, 1937 as amended, 73 P.S. § 151, et seq.; *Suspended in Part.* This section is suspended insofar as it is in conflict with the provisions of Reorganization Plan No. 8 of 1981. See 71 P.S. § 751-35.

(Related to Explosives), Act of July 10, 1957 as amended, 73 P.S. § 164, et seq. *Suspended in Part.* Section 164 is suspended insofar as it is in conflict with the provisions of Reorganization Plan No. 8 of 1981. See 71 P.S. § 751-35.

(Related to Black Powder), Act of May 31, 1974, 73 P.S. § 169 et seq.

(Related to excavation and demolition), Act of Dec.10, 1974 as amended, 73 P.S. § 176, et seq.

**XIX. Purdon's Statutes - Title 75 (Vehicles)**

Vehicle Code, Act of June 17, 1976, as amended., 75 Pa. C.S.A. § 101, et seq.

Snowmobile Law, Act of June 17, 1976, as amended, 75 Pa. C.S.A. § 7701, et seq.

(Related to hazardous materials transport), Act of June 30, 1984, 75 Pa. C.S.A. § 8301, et seq.

**XX. Purdon's Statutes - Title 77 (Workmen's Compensation)**

Workers' Compensation Act, Act of June 2, 1915 as amended, 77 P.S. § 1, et seq.

PA Occupational Disease Act, Act of June 21, 1939, as amended, 77 P.S. § 1201, et seq.

**XXI. Other Statutes**

(Relating to Medical Waste-Manifesting and Transporter Licensing), Act of July 13, 1988, 35 P.S. § 6019.1, et seq.

Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, 53 P.S. § 4000.1501.

Hazardous Sites Cleanup Act, Act of October 18, 1988, 35 P.S. § 6020.101.

**XXII. Pennsylvania Constitution - Article I, Section 27**

**(Adopted May 18, 1971)**

**FEDERAL LAW**

Acid Precipitation Act of 1980 (42 U.S.C. § 8901-8912).

Act to Prevent Pollution from Ships (33 U.S.C. § 1901-1915).

Americans with Disabilities Act, (42 U.S.C. § 12101-12213 and 47 U.S.C. § 225 and 611).

Asbestos Haz. Emerg. Response Act of 1986 [see Toxic Substances Control Act secs. 201-214 (15 U.S.C. § 2641-2656)].

Atomic Energy Act of 1954 (42 U.S.C. § 2014, 2021, 2021a, 2022, 2111, 2113, 2114).

Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. § 47501-47510).

Clean Air Act (42 U.S.C. § 7401-7642).

Clean Water Act [see Federal Water Pollution Control Act].

Coastal Zone Management Act of 1972 (16 U.S.C. § 1451-1466).

Comp.Env. Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601-9675).

Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. § 11001-11050).

Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. § 791-798).

Environmental Quality Improvement Act of 1970 (42 U.S.C. § 4371-4375).

Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136-136y).

Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701-1784).

Federal Water Pollution Control Act (33 U.S.C. § 1251-1387)

Geothermal Energy R& Development, Demonstration Act of 1974 (30 U.S.C. § 1101-1164).

Global Climate Protection Act of 1987 (15 U.S.C. § 2901 note).

Hazardous Substance Response Revenue Act 1980 (see 26 U.S.C. § 4611, 4612, 4661, 4662).

Low-Level Radioactive Waste Policy Act (42 U.S.C. § 2021b-2021d).

Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. § 1401-1445)

National Climate Program Act (15 U.S.C. § 2901-2908).

National Environmental Policy Act of 1969 (42 U.S.C. § 4321-4370f).

Noise Control Act of 1972 (42 U.S.C. § 4901-4918).

Nuclear Waste Policy Act of 1982 (42 U.S.C. § 10101-10270).

Outer Continental Shelf Land Act Amendments of 1978 (43 U.S.C. § 1801-1866).

Public Health Service Act (42 U.S.C. § 300f-300j-11).

Safe Drinking Water Act [ Public Health Service Act 1401-1451 (42 U.S.C. § 300f-300j-26)].

Soil and Water Resources Conservation Act of 1977 (16 U.S.C. § 2001-2009).

Solid Waste Disposal Act (42 U.S.C. § 6901-6991i).

Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201-1328)

Toxic Substances Control Act (15 U.S.C. § 2601-2692).

Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. § 7901-7942).

Water Resources Research Act of 1984 (42 U.S.C. § 10301-10309).

Master Cooperative Agreement (MCA) October 2018. Subrecipient and contractor requirements.

## APPENDIX A

### **NONDISCRIMINATION / SEXUAL HARASSMENT CLAUSE**

For the purposes of this provision, the term "Contractor" shall refer to the successful Bidder.

The Contractor agrees:

- A. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- B. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- C. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- D. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- E. The  
Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- F. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- G. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- H. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.



## APPENDIX B

### CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

**1. DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

**a. "Affiliate"** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

**b. "Consent"** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.

**c. "Contractor"** means the successful Bidder that enters into a contract with the Commonwealth.

**d. "Contractor Related Parties"** means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

**e. "Financial Interest"** means either:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

**f. "Gratuity"** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18*, the *4 Pa. Code §7.153(b)*, shall apply.

**g. "Non-bid Basis"** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

**2.** In furtherance of this policy, Contractor agrees to the following:

**a.** Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

**b.** Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

**c.** Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

**d.** Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

**e.** Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

(1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

(2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;

(3) had any business license or professional license suspended or revoked;

(4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and

(5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

**f.** Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.

**g.** When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

**h.** Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State

Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

## APPENDIX C

### CONTRACTOR RESPONSIBIITY PROGRAM

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717) 783-6472  
FAX No: (717) 787-9138

## APPENDIX D

### **PROVISIONS CONCERNING THE *AMERICANS WITH DISABILITIES ACT***

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of the *Americans with Disabilities Act*, 28 C. F. R. § 35.101 et seq., the contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the contractor agrees to comply with the "*General Prohibitions Against Discrimination*," 28 C. F. R. § 35.130, and all other regulations promulgated under *Title II* of the *Americans with Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
2. The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

## APPENDIX E

### ENHANCED MINIMUM WAGE PROVISIONS

1. **Enhanced Minimum Wage.** Contractor agrees to pay no less than \$12.00 per hour to its employees for all hours worked directly performing the services called for in this Contract, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
2. **Adjustment.** Beginning July 1, 2019, and annually thereafter, the minimum wage rate shall be increased by \$0.50 until July 1, 2024, when the minimum wage reaches \$15.00. Thereafter, the minimum wage rate would be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
3. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
  - a. exempt from the minimum wage under the Minimum Wage Act of 1968;
  - b. covered by a collective bargaining agreement;
  - c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
  - d. required to be paid a higher wage under any state or local policy or ordinance.
4. **Notice.** Contractor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
5. **Records.** Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
6. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
7. **Subcontractors.** Contractor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

# BID PROPOSAL

**CONTRACT NO.  
DMVA 42200054**

## **NOTICE TO BIDDERS**

Department of Military and Veterans Affairs, Bureau of Office Services, Procurement and Contracting, Building 0- 47, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002.

Project. ....193<sup>rd</sup> Special Operations Wing Construct Simulator Bay/Jet Engine Maintenance Shop Addition

Location..... Harrisburg Air National Guard, Middletown, PA.

Agency.....Department of Military and Veterans Affairs

Brief Description.....The work under this Contract shall generally consist of, but not necessarily be limited to, provide all professional services, supervision, safety, warranties, labor, material, devices, tools and equipment required to Construct Simulator Bay/Jet Engine Maintenance Shop Addition for the 193<sup>rd</sup> SOP and shall be in total accordance with the specifications and drawings and subject to the terms and conditions of all other Contract Documents.

Contracting Officer:.....Tina Rebuck

Opening Date and Time..... August 8th, 2020 at 2PM

Contract Number.....DMVA. 42200054

Bid Guaranty .....Payable to the Commonwealth of Pennsylvania, Department of Military and Veterans Affairs, in an amount not less than ten (10%) percent of the bid.

Proposed Date of Completion .....365 Calendar Days from the Initial Job Conference

Period.....60 Days allowed from Bid Opening until Award of Contract

**MANDATORY Vendor Registration:** All Bidders must be registered to secure plans and specifications and must have a current, active vendor number. Register at [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us).

All bids should be submitted electronically on the [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us) site. For questions/concerns, please call the Help Desk at 877-435-7363.

All questions are due by COB 4:30PM on July 28th, 2020

Public Works Employment Verification Act: The Bidder must comply with the Public Works Employment Verification Act 127 of 2012 by submitting to the Department with your bid submission and prior to the award of the contract.

Forms that need to be completed and submitted with your bid:

Bid Proposal  
Bidder Certification  
Bid Bond  
Lobbying Certification Form  
Public Works Employment Verification Form  
Reciprocal Limitations Form  
Addendums





# **BID PROPOSAL**

**Department of Military and  
Veterans Affairs  
Bldg 0-47, Fort Indiantown Gap  
Annville, PA 17003**

*Do not write in space below*

Date: \_\_\_\_\_

Bid Opening Witness:  
\_\_\_\_\_

Legal Review:  
\_\_\_\_\_

**CONTRACT NO. 42200054  
ELECTRICAL  
193<sup>RD</sup> SOP SIMULATOR  
FORT INDIANTOWN GAP**

**Bidder Name and Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Bidder Phone #:**

**Bidder FAX #:** \_\_\_\_\_

**Bidder Email:**

**Bidder Federal ID #:** \_\_\_\_\_

**Vendor ID #:** \_\_\_\_\_

**BULLETIN INFORMATION:** Bidder acknowledges receipt of the following Addenda(s) and agrees they are part of this Bid Proposal.

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda# \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

**BASE BIDS**

**THE BIDDER MUST TYPE/WRITE ITS TOTAL BID PRICE FOR EACH SEPARATE  
BASE BID ON THIS "BASE BID" SHEET. DO NOT SOLELY WRITE ANY  
ADDITIONAL OR DEDUCTED AMOUNT ON THE BASE BID LINE.**

**Base Bid #1:**

For all **ELECTRICAL** the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_). (Written)



# **BID PROPOSAL**

**Department of Military and  
Veterans Affairs  
Bldg 0-47, Fort Indiantown Gap  
Annville, PA 17003**

*Do not write in space below*

Date: \_\_\_\_\_

Bid Opening Witness:  
\_\_\_\_\_

Legal Review:  
\_\_\_\_\_

**CONTRACT NO. 42200054  
GENERAL CONSTRUCTION  
193<sup>RD</sup> SOP SIMULATOR  
FORT INDIANTOWN GAP**

**Bidder Name and Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Bidder Phone #:**

\_\_\_\_\_  
**Bidder FAX #:**

**Bidder Email:**

\_\_\_\_\_  
**Bidder Federal ID #:**

**Vendor ID #:**  
\_\_\_\_\_

**BULLETIN INFORMATION:** Bidder acknowledges receipt of the following Addenda(s) and agrees they are part of this Bid Proposal.

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda# \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

**BASE BIDS**

**THE BIDDER MUST TYPE/WRITE ITS TOTAL BID PRICE FOR EACH SEPARATE  
BASE BID ON THIS "BASE BID" SHEET. DO NOT SOLELY WRITE ANY  
ADDITIONAL OR DEDUCTED AMOUNT ON THE BASE BID LINE.**

**Base Bid #1:**

For all **GENERAL CONSTRUCTION** the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_). (Written)

**Base Bid #2:**

For all **GENERAL CONSTRUCTION** the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_). (Written)

**Base Bid #3:**

For all **GENERAL CONSTRUCTION** the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_). (Written)



# BID PROPOSAL

Department of Military and  
Veterans Affairs  
Bldg 0-47, Fort Indiantown Gap  
Annville, PA 17003

*Do not write in space below*

Date: \_\_\_\_\_

Bid Opening Witness:  
\_\_\_\_\_

Legal Review:  
\_\_\_\_\_

**CONTRACT NO. 42200054  
HVAC  
193<sup>RD</sup> SOP SIMULATOR  
FORT INDIANTOWN GAP**

**Bidder Name and Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Bidder Phone #:**

**Bidder FAX #:**

**Bidder Email:**

**Bidder Federal ID #:**

**Vendor ID #:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BULLETIN INFORMATION:** Bidder acknowledges receipt of the following Addenda(s) and agrees they are part of this Bid Proposal.

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda# \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

**BASE BIDS**

**THE BIDDER MUST TYPE/WRITE ITS TOTAL BID PRICE FOR EACH SEPARATE  
BASE BID ON THIS "BASE BID" SHEET. DO NOT SOLELY WRITE ANY  
ADDITIONAL OR DEDUCTED AMOUNT ON THE BASE BID LINE.**

**Base Bid #1:**

For all **HVAC** the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_). (Written)



# **BID PROPOSAL**

**Department of Military and  
Veterans Affairs  
Bldg 0-47, Fort Indiantown Gap  
Annville, PA 17003**

*Do not write in space below*

Date: \_\_\_\_\_

Bid Opening Witness:  
\_\_\_\_\_

Legal Review:  
\_\_\_\_\_

**CONTRACT NO. 42200054  
PLUMBING  
193<sup>RD</sup> SOP SIMULATOR  
FORT INDIANTOWN GAP**

**Bidder Name and Address:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Bidder Phone #:**

**Bidder FAX #:** \_\_\_\_\_

**Bidder Email:**

**Bidder Federal ID #:** \_\_\_\_\_

**Vendor ID #:** \_\_\_\_\_

**BULLETIN INFORMATION:** Bidder acknowledges receipt of the following Addenda(s) and agrees they are part of this Bid Proposal.

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda# \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

Addenda # \_\_\_ Issue Date: \_\_\_\_\_

**BASE BIDS**

**THE BIDDER MUST TYPE/WRITE ITS TOTAL BID PRICE FOR EACH SEPARATE  
BASE BID ON THIS "BASE BID" SHEET. DO NOT SOLELY WRITE ANY  
ADDITIONAL OR DEDUCTED AMOUNT ON THE BASE BID LINE.**

**Base Bid #1:**

For all **PLUMBING** the sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_). (Written)



# BIDDER ORGANIZATIONAL INFORMATION

---

## **BIDDER ORGANIZATION (Check applicable box)**

- The Bidder is a corporation, limited liability company, or partnership organized and existing under the laws of Pennsylvania and has been granted a certificate of authority to do business in Pennsylvania as required by the Business Corporation Law of 1988, as amended \_\_\_\_\_

OR

- The Bidder is a corporation organized and existing under the laws of \_\_\_\_\_ and **has or has not** (circle one) been granted a certificate of authority to do business in Pennsylvania as required by the Business Corporation Law of 1988 (15 Pa. C.S. §4121-§4131), as amended.

OR

- The Bidder is a limited liability company organized and existing under the laws of \_\_\_\_\_ and **has or has not** (circle one) registered to do business in Pennsylvania as required by the Limited Liability Company Law of 1994 (15 Pa. C.S. §8981-§8982), as amended.

OR

- The Bidder is a limited partnership organized and existing under the laws of \_\_\_\_\_ and **has or has not** (circle one) registered to do business in Pennsylvania as required by the Partnership Code (15 Pa. C.S. §8581-§8590), as amended.

OR

- The Bidder is an individual or partnership trading under a fictitious or assumed name and **has or has not** (circle one) registered under the Fictitious Names Act (54 Pa. C.S. §301-§332), as amended.

## **BIDDER RESIDENCE INFORMATION**

Bidder has a bona fide establishment in Pennsylvania at which it was transacting business when the Notice to Bidders for this Project was issued?

If **"Yes"**, insert address below if different than address on page 1:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If **"No"**, insert Bidder's office address if different than address on page 1.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION AND BID SIGNATURE**

To Department of Military and Veterans Affairs (DMVA), Annville, Pennsylvania,

In conformity with the plans and specifications prepared by the **PROFESSIONAL as** listed on the eMarketplace website under **solicitation number 6100051042** and after an examination of the site of the work, and all the contract documents, including issued Addendums, which are made a part hereof as if fully set forth herein, the undersigned (hereinafter "Bidder") submits this bid and certifies by signing below:

**Date:** \_\_\_\_\_

**BIDDER AS AN INDIVIDUAL:**

Witness:

\_\_\_\_\_

By:

\_\_\_\_\_

Contractor – Individual

**BIDDER IS A PARTNERSHIP:**

Witness:

\_\_\_\_\_

By:

\_\_\_\_\_

Contractor – General Partner

**BIDDER IS A LIMITED LIABILITY COMPANY:**

Witness:

\_\_\_\_\_

By:

\_\_\_\_\_ Secretary

President

**BIDDER IS A CORPORATION:**

Attest:

\_\_\_\_\_

By:

\_\_\_\_\_

President

Secretary

# **ADMINISTRATIVE PROCEDURES**

**FOR  
CONSTRUCTION CONTRACTS**

**FORT INDIANTOWN GAP  
ANNVILLE, PENNSYLVANIA**

**2019 EDITION**

**DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
ADMINISTRATIVE PROCEDURES**

**ADMINISTRATIVE PROCEDURE NO. 1**

Orientation Meeting

**ADMINISTRATIVE PROCEDURE NO. 2**

Job Conferences

**ADMINISTRATIVE PROCEDURE NO. 3**

Schedule of Values

**ADMINISTRATIVE PROCEDURE NO. 4**

Progress Schedule  
and Critical Path Method (CPM) Scheduling

**ADMINISTRATIVE PROCEDURE NO. 5**

Materials Testing (All Items – General Requirements)  
Laboratory Sample or Field Test Identification  
Materials Testing (Selection of Testing Laboratory)  
Concrete Testing (Approval of Mix Computations)  
Concrete Mix Computation  
Invoice Procedure for Payment of Testing Services (Professional)  
Invoice/Billing for Professionals & Testing Labs  
Manufacturers' High Voltage Cable Test (Birth Certificate)  
Field High Voltage Cable Test  
HVAC Systems Balancing

**ADMINISTRATIVE PROCEDURE NO. 6**

Submittals

**ADMINISTRATIVE PROCEDURE NO. 7**

Contractor's Invoice  
Prevailing Minimum Wage Certificate  
Invoice of Labor, Materials/Equipment  
Stored Materials  
Payroll Affidavit, Contractor's Certificate and Statement of Surety, Power of Attorney

**ADMINISTRATIVE PROCEDURE NO. 8**

Changes in Contract Work (Field Orders/Change Orders)

**ADMINISTRATIVE PROCEDURE NO. 9**

Request for Extension of Time Change Order

**ADMINISTRATIVE PROCEDURE NO. 10**

Submission Guidelines for Steel Certificates for DMVA Projects  
Steel Origin Certification: Prime Contractor – Form ST-1  
Steel Origin Certification: Fabricator – Form ST-2  
75% U.S. Manufacture Certification: Fabricator – Form ST-3  
Not Domestically Manufactured: Prime Contractor – Form ST-4

**ADMINISTRATIVE PROCEDURE NO. 11**

Dispute Resolution Form

**ADMINISTRATIVE PROCEDURE NO. 12**

Utilization/Occupancy Inspection  
Occupancy/Utilization  
Final Inspection  
Conclusion of Final Inspection

**ADMINISTRATIVE PROCEDURE NO. 13**

Small Diverse Business and Small Business Participation

## ADMINISTRATIVE PROCEDURE NO. 1

### ORIENTATION MEETING

#### A. **Scheduling of Orientation Meeting**

Within ten (10) days of the Effective Date of the Contract, (or earlier if authorized in a Letter of Intent) the Construction Project Manager will contact the Contractor(s) to schedule an Orientation Meeting to familiarize the Contractor(s) with Departmental procedures and processes.

At DMVA's discretion, Contractors are required to attend the scheduled Orientation Meeting. Notification of the meeting date, time and place will be confirmed by email. Personnel from the Contractor's office that will be associated with the Project, such as the principal of the firm, project manager and project superintendent **must attend** the meeting.

#### B. **Agenda for Orientation Meeting**

1. Introduction of personnel by Construction Project Manager.
2. Explanation of Administrative Procedures and DMVA's processes and forms.
3. Question and answer period.

#### C. **Submission of Documentation**

All required documentation referenced in these Administrative Procedures shall be forwarded to the Project Manager(s) with a copy provided to the Professional, Contracting Officer, and any additional DMVA Personnel represented at the Orientation Meeting unless otherwise noted.



## ADMINISTRATIVE PROCEDURE NO. 2

### JOB CONFERENCES

#### A. General Information Concerning Job Conferences

1. The following representatives **must attend** Initial, Regular and Special Job Conferences\*\*:

- All Prime Contractors (i.e., assigned Project Manager and approved Superintendent)
- Professional Representative
- DMVA Construction Project Manager

\*\* **Special Job Conferences are scheduled by the Construction Regional Director or designee.**

2. Unless DMVA direct otherwise, the following representatives may attend any Job Conference, but are not required to be present:

- Client Entity
- Facility personnel
- Testing Laboratory Technicians
- Office of Facilities and Engineering, as required
- DMVA Construction Project Manager
- Other representatives, as appropriate (determined by DMVA)

3. The Department shall appoint a person to take the minutes of the Job Conferences.

4. Failure to attend any Job Conference is a violation of the Contract as indicated in the General Conditions of Contract. Any Contractor who does not attend the Job Conference is subject to termination, unless absence is excused by the Department. The Department may issue a credit change order to any Prime Contractor who does not attend and is not excused from any Job Conference.

#### B. Initial Job Conference

1. The Construction Project Manager or designee will set the time, date and place for the Initial Job Conference, which will be no later than the thirty (30) days following the Effective Date of the Contract.

2. The Notice initiating the Conference shall be distributed to all parties by the Project Manager.

3. The date of the Initial Job Conference will signify the Contract Start Date for purposes of calculating the Contract Completion Date.

a. If a Letter of Intent was issued on the project, Contractors are required to proceed with the off-site scope of Work set forth in the letter. On-site Work may start only when the contract is fully executed.

b. Contractors are required to commence on-site work within ten (10) days after the Initial Job Conference.

4. During the Initial Job Conference, the DMVA Project Manager or designee shall conduct the order of business and discuss specific requirements and particulars of project construction.

5. Distribution of the Initial Job Conference Report will be made electronically.



6. Agenda for the Initial Job Conference

- a. Introduction of attendees.
- b. Review of Special Requirements, which may include some, none or all of these examples:

- (1) Protection of the Environment
- (2) Asbestos
- (3) Parking
- (4) Office for Contractor
- (5) Field Office
- (6) Temporary Heat
- (7) Existing Utilities
- (8) Working Hours
- (9) Operation and Maintenance Instructions/Manuals
- (10) Small Diverse Business Program
- (11) Contractor Integrity Provision
- (12) Debarment, Suspension and Other Responsibilities
- (13) Excavation
- (14) Roof Deck
- (15) Product Discrimination
- (16) Mobilization
- (17) Steel Products Procurement Act
- (18) Insurance Coverage
- (19) Privity of Contract
- (20) Public Works Employment Verification Act
- (21) Other

c. General Remarks

- (1) Safety
- (2) Discrepancies
- (3) Coordination

d. General Information

- (1) Project Sign
- (2) Roof Bond/Warranties
- (3) Concrete
- (4) As-Built Record Drawings
- (5) Project Supervision
- (6) Miscellaneous

e. Permits, Fees, Notices

f. Establishment of date, time and location of the first Regular Job Conference

g. Review of General Conditions

h. General Comments

**C. Regular Job Conference**

- 1. Job Conferences may be held as often as necessary, however, normally bi-weekly.
- 2. The DMVA Project Manager, or designee, shall conduct Job Conferences. These Job Conferences shall be attended by those described at the beginning of this Administrative Procedure.

3. The agenda of a Regular Job Conference shall include, at a minimum, the following:
  - a. General Review of Previous Report
    - i. Unsatisfactory conditions and/or workmanship, as noted on previous Job Conference Reports, must be noted when corrected by the Contractor in the minutes of the first report following the correction. The manner in which the correction was made should also be noted in the minutes. The unsatisfactory item will be included as an item in each report until the issue is corrected.
  - b. General discussion of Job Conditions
  - c. Review of past due Shop Drawings
  - d. Review of outstanding Change Orders
  - e. Review of Progress Schedule
    - i. Special attention will be given to items that are behind schedule.
  - f. Projected work for the next bi-weekly period
  - g. Delays
    - i. Each Prime Contractor should pay special attention to ensure that delays are documented on the Job Conference Reports since the Department will review the minutes of the Job Conferences in reviewing the Contractor's request for any Extension of Time.
  - h. General Information will be inserted onto the written Job Conference Reports, such as, percentage of elapsed time for project, percentage of payment for project, percentage of job completion for project (based upon physical inspection), date, time and place of next job conference and name of person who prepared the Report.
4. Job Conference Reports will be distributed electronically.

**D. Special Job Conferences**

1. The Project Manager or other DMVA representative may call a Special Job Conference to consider any emergency or unusual job condition. Only the subject(s) mentioned in the request for the Special Job Conference shall be discussed.

## ADMINISTRATIVE PROCEDURE NO. 3

### SCHEDULE OF VALUES

- A. The Schedule of Values shall be prepared and submitted by each Contractor for the Department's and the Professional's approval **within 45 days of the Effective Date of the Contract and prior to the first invoice, unless required to be submitted earlier in a Letter of Intent issued by DMVA.**
- B. The DMVA Project Manager, and the Professional will review and provide comments. Contractors are advised that a **minimum of 10 work days** after the receipt of the submission will be required by the Department for review and approval of the Schedule of Values or Supplemental Schedule of Values.
- C. No Invoice will be approved by the Department until the Schedule of Values has been approved.
- D. The Schedule of Values, when approved by the Department, will be utilized as the basis for the Contractor's Invoices. The Schedule of Values may also be used by the Department to determine the debit or credit to the Department resulting from changes in the work.
- E. General Information
1. Items must be listed according to building or area.
  2. Temporary services and/or equipment furnished at the Contractor's cost that are not an integral part of the Project may not be shown on the Schedule of Values. The cost of these items (with the exception of temporary heat) must be prorated throughout the items of Work, material and/or equipment to which it pertains.
  3. Contract Bond shall be shown as an item. The bond may not exceed the Contractor's percent/amount of their bond receipt. The receipt for the bond must be submitted with the original Schedule of Values.
  4. The Roof Bond/Guaranty must be a separate item, when applicable.
  5. The Contractor may include in its Schedule of Values a single line item for Mobilization. Mobilization costs shall be limited to include only those items listed in the Mobilization Paragraph of the General Conditions of Contract. For contracts up to \$6,000,000, the Contractor may include on the cost breakdown a line item for mobilization costs listed at 1.5 percent of the contract award amount, not to exceed \$90,000. For contracts exceeding \$6,000,000, mobilization costs in excess of \$90,000 will be determined by negotiation prior to submission of the breakdown.
  6. Excavation and backfill must be shown as separate items. If hand excavation is required, it must also be separately listed. All excavation and backfill quantities shall be indicated in cubic yard units. If there is no backfill, an explanation must be provided.
  7. Concrete for structures is to be indicated in cubic yard units. Concrete sidewalk and concrete paving may be indicated as square yard units. All unit prices for concrete work are to include forming. Forming may not be indicated as a separate line item.
  8. Painting must be listed as a separate item in square feet. Lump sum costs will not be accepted.
  9. "Furnish" or "Install" are not to be used as part of the description of a line item. Procurement and installation costs must be included in the line item of work. The only exception shall be in cases where materials or equipment are furnished by the owner or using agency for installation by the contractor.
  10. "Demolition" is to be followed in parenthesis indicating the item to be demolished.
  11. Scaffolding is not to be shown as a separate line item, but is to be included in the item with which it is associated.
  12. Site surveying, as a line item, is permitted only for the General Contractor.

13. Engineering of plans is not permitted as a line item.
14. The HVAC Contractor may show sheet metal work as two items, i.e., (a) Sheet metal shop drawings; and, (b) Sheet metal fabrication and installation. Shop drawings must be shown at actual cost and as one lump sum/line-item. Shop drawings must be approved prior to being invoiced on an Invoice. When the Contractor requests payment for shop drawings, a copy of the subcontractor's invoice, if a subcontractor is used for that item, must be attached to the Invoice.
15. When balancing of heating and ventilating systems is required by the specifications, it shall be shown as a separate item.
16. Costs retained for Commissioning, as described in the General Conditions, must appear as a separate line item in the amount described in the Contract Documents.
17. Lump Sum items cannot be paid until the item is completely finished, inspected, and accepted by the Department, except on unit price projects, where lump sum items can be paid based upon the percentage completed.
18. Operation and Maintenance Manuals shall be indicated as one line item. The value shall be not less than ten percent (10%) of the amount included for mobilization. The amount included is subject to the approval of the Department.
19. Record Drawings shall be indicated as one line item. The value shall be not less than ten percent (10%) of the amount included for mobilization. The amount included is subject to the approval of the Department.
20. Site work shall be identified for each applicable line item. Site work includes, but is not limited to, site preparation, erosion and sediment controls, earth work, grading, excavation, landscaping, seeding, concrete or bituminous paving, sidewalks, and any site utility (e.g., water, gas, sewer, etc.) work.
21. A supplemental Schedule of Values for those items listed as Lump Sum on the original approved Schedule of Values may be submitted at a later date, indicating quantity, unit price and extensions for all items to be furnished and installed under each Lump Sum item. Lump Sum items should be kept to a minimum. Supplemental breakdowns cannot be submitted on items where partial payment has been made.
  - a. **Items to be subcontracted must be designated by the word "subcontractor."**
  - b. Descriptions shall be clear and concise for each item of work, material or equipment, using the same designation as the specifications. All items (examples: concrete masonry units, conduit, pipe fittings, wire, cable, etc.) must be listed by type and size to be installed.
  - c. Temporary heat, if required by the Contract Documents, must be shown on the breakdown as a separate line item. This item will be shown as the last item on the Schedule of Values and must include the number of days specified in the Special Requirements, the Unit Price per twenty-four hour day, and the extension of the figures. **Any adjustment to the number of days of temporary heat, used or not, will be based on the Unit Price shown on the breakdown.**
  - d. Items listed in the index of the specifications must be included, in chronological order, on the breakdown. Additional items may be listed at the Contractor's discretion. Do not utilize alpha-numeric numbering except in cases where supplemental breakdowns are submitted.
  - e. Unit price proposals are an exception to the above procedures. Unit price proposals must be reflected on the breakdown sheet in the same amount and in the same order as in the Contract.

## ADMINISTRATIVE PROCEDURE NO. 4

### PROJECT SCHEDULE and CRITICAL PATH METHOD (CPM) SCHEDULING

#### A. General Information on Project Scheduling

The Lead Contractor shall be responsible for coordinating the schedule among the Contractors, as described in detail in the General Conditions. The Project Schedule shall be a CPM Schedule developed, prepared and submitted in accordance with the same requirements and time frames as required by the General Conditions of the Construction Contract and the requirements of this Administrative Procedure.

1. The CPM Scheduling system is to be implemented by the Lead Contractor, utilizing the services of a qualified subcontractor or its own in-house staff. The subcontractor or Contractor, if utilizing in-house staff, must provide evidence to the Department's satisfaction, that the Contractor or subcontractor has computer hardware and software which is standard in the industry for CPM scheduling. The Contractor/subcontractor and must also provide evidence of at least five years scheduling experience with projects of the same size and nature.
2. In no event shall any activity indicated on the Schedule exceed a 20-day duration unless authorized by the Department.
3. **Within seven (7) days of the Effective Date of the Contract (or earlier if authorized in a Letter of Intent)**, the Lead Contractor on the Project shall furnish each separate Prime Contractor a schedule of the proposed prosecution of the Work under that Prime Contractor's Contract.
4. **Within seven (7) days of receipt of the Lead Contractor's proposed progress schedule**, each separate Prime Contractor shall submit to the Lead Contractor a schedule of the proposed prosecution of its Work, which shall be integrated with the Lead Contractor's Work.
5. **No later than thirty (30) days after the Effective Date of the Contract**, the Lead Contractor shall (in accordance with the scheduling provisions of the General Conditions) submit the Integrated Progress Schedule signed by all Prime Contractors (indicating their approval of the contents of the Schedule).
6. **Within seven (7) days of receipt of the Schedule from the Lead Contractor**, the Project Manager or designated representative and the Professional will review and accept/reject.
7. The construction sequences, activity duration and logic utilized in the development and preparation of the Schedule shall result in an as-planned schedule that must meet the Contract Completion Date set forth in the Contract Documents.
8. Each Prime contractor shall be responsible for providing a daily report of all work performed each day on the project until project close-out. This report shall include, but is not limited to: the Prime Contractor's numerated work force and related work activities performed, the Prime Contractor's numerated sub-contractors' workforce on site (of all tiers) and related work activities performed, equipment on site, testing performed, weather conditions (high and low temperatures, precipitation, etc.), material deliveries and L&I inspection activities. Each daily report shall be provided to the Project Manager within 24 hours of each work day. If no work is performed, a daily report shall be submitted stating no work was performed. Submission of this daily report shall not preclude or waive the need to address issues and activities that shall be addressed within the contract documents via required processes and/or forms. **Failure of a Prime Contractor to submit timely, consistent and accurate daily reports shall be considered a non-conformance of the contract and shall be handled in a manner defined by the Contract Documents.**

9. All Work is to be completed in accordance with the accepted Master Project Schedule. The Master Project Schedule will reflect the decisions of all Contractors as to sequence, duration, construction logic and all means and methods of construction.
10. **The Department will only review and pay (if the application is otherwise acceptable) the Contractor's first Invoice without a Master Project Schedule being submitted and accepted by the Department. No further Applications for Payment will be accepted from any Contractor until the Department has accepted the Master Project Schedule. Since it is the Contractors' affirmative duty to coordinate the Work and prepare the Master Project Schedule, any delay to the Project due to not having an acceptable Master Project Schedule will be attributable to the Contractors.**
11. Activity time delays shall not automatically mean that an extension of time is warranted or due any Prime Contractor. A contract modification or delay may result in only absorbing a part of the available total float that may exist within an activity or chain of activities, therefore, the modification or delay may not affect existing critical activities, interim milestone dates or cause non-critical activities to become critical.
12. The Department owns the float. No float shall be used by the Contractor without a written request and subsequent directive from the Department or its designee. Total float is defined as the amount of time between the early start date and the late start date, or the early finish date and the late finish date, for each and every activity in the Master Project Schedule. Extensions of time to interim milestone dates or the Contract Completion Date under the various contracts will be considered only to the extent that equitable time adjustments to the activity or activities affected by the contract modification or delay exceeds the total float of the affected or subsequent paths and extends any interim milestone date or the Contract Completion Date.
13. General Information
  - a. List items of construction as they will be installed. When more than one building, level or floor is included, each building, level or floor shall be listed separately. The Master Project Schedule **must also include** critical submittals, submissions of shop drawings for approval, approval of shop drawings, placing of orders for materials and delivery of materials.
  - b. Each Prime Contractor is responsible for assuring that any and all subcontract work as well as its own work is included in the schedule.
  - c. The Master Project Schedule shall reflect Early Start/Early Finish Dates, Late Start/Late Finish Dates and available Float or Slack time for each and every activity.
  - d. From the activities of the various contracts critical to the Scheduled Completion Date, the Lead Contractor shall identify and incorporate construction progress milestones for the Project into the Master Project schedule, in accordance with the General Conditions of Contract. Unless the Contract Documents state otherwise, the milestones are to signify the start date of a specific activity that is critical to the completion of the project on schedule. **Each contractor must show at least one milestone in each month of the scheduled construction period.**

**ADMINISTRATIVE PROCEDURE NO. 5**

**MATERIALS TESTING (ALL ITEMS-GENERAL REQUIREMENTS)  
LABORATORY SAMPLE OR FIELD TEST IDENTIFICATION**

**MATERIALS TESTING (SELECTION OF TESTING LABORATORY)  
CONCRETE TESTING (APPROVAL OF MIX COMPUTATIONS)  
CONCRETE MIX COMPUTATION**

**INVOICE AND BILLING FOR PROFESSIONALS AND TESTING  
LABORATORIES  
MANUFACTURERS' HIGH VOLTAGE CABLE TEST (BIRTH CERTIFICATE)  
FIELD HIGH VOLTAGE CABLE TEST  
HVAC SYSTEMS BALANCING**

**A. Materials and Concrete Testing Performed by the Contractor (General Requirements)**

**The Contractor shall:**

1. Give the Department and the Professional timely notice of its readiness and of the date arranged, so the Professional may observe such inspection or testing.
2. Bear all costs of such inspections and tests, unless otherwise provided. All expenses incurred in the collecting, packing and delivering of samples of materials or equipment to or from the site or laboratory will be paid by the Contractor, unless otherwise noted in the General Conditions, Specifications or Contract Drawings.
3. All testing information shall be provided to the Professional. This shall include all test reports.
4. For all concrete testing, the test reports and the following information and/or data must be provided to the Professional:
  - a. Placement Date;
  - b. Design Strength;
  - c. Ambient temperature;
  - d. Slump;
  - e. Air Content percentage;
  - f. Temperature of Concrete;
  - g. Who took the test/sample;
  - h. Where are cylinders being cured;
  - i. Name of Approved testing laboratory;
  - j. 3 Day Break Strength;
  - k. 7 Day Break Strength;
  - l. 28 Day Break Strength; and
  - m. 56 Day Break Strength,
5. A Laboratory Sample or Field Test Identification shall accompany each sample to be tested.
6. When testing concrete cylinders, each cylinder shall be numbered consecutively and prefaced for design mix tests, precast concrete and pre-stressed concrete. The type of cylinder shall be noted on the form as follows:

DM - Design Mix  
PC - Precast Concrete  
PS – Pre-stressed Concrete

7. Cylinders for concrete other than the above will not be prefaced. Approved samples to be incorporated into the work shall be returned to the site by the Testing Laboratory.

**The Professional shall:**

1. Secure, review, and approve/reject all submitted testing information and data.

**B. Materials Testing (Selection of Testing Laboratory)**

- A. When the Department is paying for the testing of materials, the DMVA Project Manager will notify the Professional to seek cost quotes to perform the required testing. The Professional will submit the name of the laboratory it has selected to the DMVA Project Manager. If the DMVA Project Manager approves the selection, they will authorize the Professional to contract with the laboratory selected. Contractors will be notified of this selection at the Initial Job Conference by the Professional.
- B. When the Contractor is responsible for testing, the Contractor will select an independent testing laboratory. The Contractor must notify all parties concerned of the selection at the Initial Job Conference.

**C. Concrete Testing (Approval of Mix Computations)**

1. The Contractor shall material submittal process to supply all mix computation information.

**D. Manufacturer's High Voltage Cable Test Report (Birth Certificate)**

1. The Contractor will ensure the Cable Test Report (Birth Certificate) is in compliance with the Contract Documents. The Contractor shall submit all testing information through the material submittal process. This shall include attaching all test reports and select data and information from the test reports.
2. The Professional will review and approve/reject the report for compliance with the Contract Documents.
3. High Voltage Cable may not be installed until the Manufacturer's Cable Test Reports are approved by the Professional.
4. If the report is rejected by the Professional, the report will be returned to the Contractor with an explanation.

**E. High Voltage Cable Field Test Report**

1. The Contractor shall submit all testing information through the material submittal process. This shall include all test reports.
2. The Professional shall review the report for compliance and approve/reject the report.
3. Payment for High Voltage Cable will be made only after the Manufacturer's Test Report is approved, cable is installed and the Field Test Report is approved by the Professional and reviewed by the Department.
4. If the report is rejected, the Professional shall return it to the Contractor with an explanation.

**F. HVAC Systems Balancing Report**

1. The Contractor shall provide all testing and balancing information through the material submittal process. This shall include attaching the final balancing report.



2. The Professional shall, upon receipt of the Balancing Report from the Contractor, review it for compliance with balancing procedures and the Contract Documents. The Professional will review the report for compliance and approve/reject.
3. If the report is rejected, the Professional shall return the report to the Contractor with an explanation.
4. Payment for test and balancing will not be made until the report(s) are approved by the Professional.

## ADMINISTRATIVE PROCEDURE NO. 6

### SUBMITTALS

- A. Each Prime Contractor shall prepare and submit to the Lead Contractor a **Draft Submittal Schedule** showing all items requiring submission including, but not limited to the items listed on the Submittal Register. The **Submittal Schedule** shall be prepared in accordance with the Submittal Article of the General Conditions. All critical and long lead submittal items from the **Submittal Schedule** shall then be integrated by the Lead Contractor and tied to the logic of activities in the Master Project Schedule.
- B. Each Prime Contractor's draft Submittal Schedule (to be submitted to the Lead Contractor) shall include the following as a minimum:
1. Submittal breakdown by Specification Section number and division;
  2. Scheduled date for initial submittal of item; and
  3. Days required after return of an approved submittal to order, fabricate and deliver the specific item to the site.
- C. If the development of the Submittal Schedule affects the construction sequencing, durations, logic or any other aspect of the Project Schedule, including established milestones, the Lead Contractor, in concert with the other Prime Contractors, shall make any necessary revisions to the Project Schedule. The contract completion date will not be adjusted as a result of these revisions. Review and acceptance of this revised integrated Progress Schedule, by the Department and Professional, shall follow the procedures established in Project Schedule Administrative Procedure. The Contractor shall also provide an explanation detailing the reasons for the revision and the activities affected in the letter of transmittal.
- D. The Prime Contractor shall provide the Submittal Schedule and all subsequent submittals and material submittals electronically to the Project Manager, the Professional, and the DMVA Contracting Officer.
- E. The Professional will review and approve/reject/other all submittals electronically and place its appropriately worded stamp on the submittal. Accepted language is Approved, Approved as Noted, For Record Only, Not Approved, and Revise and Resubmit.
- F. The Contractor shall make any corrections required by the Professional and shall resubmit shop drawings or new samples until approved. The resubmission shall be acted upon by the Professional **within ten (10) days of its receipt**, unless a different period of time is approved by the Department. The resubmission of submittals by the Contractor and subsequent review by the Professional shall be in accordance with the General Conditions of Contract.
- G. **Any work commenced by the Contractor prior to final approval of the submittals by the Professional is performed by the Contractor at its own risk.**

## ADMINISTRATIVE PROCEDURE NO. 7

### CONTRACTOR'S INVOICE PREVAILING MINIMUM WAGE CERTIFICATE INVOICE OF LABOR, MATERIALS/EQUIPMENT PAYROLL AFFIDAVIT, CONTRACTOR'S CERTIFICATE AND STATEMENT OF SURETY, POWER OF ATTORNEY STORED MATERIALS

#### A. General Information

1. Contractor's Invoices shall be created and submitted to the DMVA Contracting Officer in accordance with the Payment Article of the General Conditions and this Administrative Procedure.
2. No Invoice will be processed until the Schedule of Values, has been approved.
3. An Invoice will not be processed unless the Small Diverse Business Utilization Report (See AP 15) has been submitted within 30 days prior to the Invoice.
4. When an Invoice is received, the DMVA Construction Project Manager shall review and approve/deny the invoice. The DMVA Construction Project Manager **has five calendar days, from this date, to review and take action.**
5. In accordance with the Prompt Payment Schedule (62 Pa. C.S. §3931-§3939) the Department shall make payment **within forty-five (45) calendar days of the date the Invoice is received in a complete and acceptable format.** The time does not start until the invoice is accepted by the Department. For purposes of calculating the forty-five calendar days, the start date will be the day on which the Department approves the Invoice.

#### B. Prevailing Minimum Wage Certificate or Davis Bacon Wage Act Certification

- A. The Prevailing Minimum Wage Certificate must be completed, by the Contractor, and attached to each Invoice to certify compliance with the payment of Prevailing Minimum Wages as required by the Contract Documents.
- B. All Prime Contractors are required to submit the Form LLC-25 (or Form WH-347 if Davis-Bacon Wage Act applies to the contract) for themselves and all subcontractors of every tier on a weekly basis. The Contractor shall provide ONLY the information required on the form and shall not include any employee personal information (i.e., social security numbers, home addresses, phone numbers, etc.). If the Contractor intends to provide forms with employee personal information, the Contractor shall redact it prior to submitting the forms and attachments.

#### C. Invoice for Work Completed

1. The Contractor must provide a true and correct list of the work performed for each pay period.
2. An approved change order may be paid on a percentage basis as the work is completed.

**D. Stored Materials**

1. Stored Materials may be invoiced by a Contractor when materials are ordered in advance and stored at an appropriate facility or the site until installation will occur. Material that is scheduled for installation **in less than forty-five days** from the date of procurement is not eligible for payment as stored material.
2. A completed Stored Materials Form must be submitted with the Invoice.
3. Prior approval to store materials is not required by the Department.
4. It is not necessary for the Project Manager to visit the warehouse where materials are stored off-site. By executing the Stored Materials Form and submitting photographs, the Contractor will be attesting to the fact that the materials are properly stored. The Contractor is responsible for proper storage of the materials at the project site. Materials must be stored off the ground and properly protected from the elements.
5. Only one supplier may be submitted on each Stored Materials Form.
6. The description of line items on the vendor's invoice should be identical to the description on the Stored Materials Form and the Schedule of Values. If an item description on the vendor's invoice is not identical, the Contractor must clearly describe, either on the invoice or an attachment, the invoiced item(s) as related to the items on the Stored Materials and Schedule of Values.
7. The vendor's invoice must also show the Unit Wholesale Price and the Extended Unit Wholesale Price. It is permissible for the Contractor to add information to the vendor's invoice for the purpose of clarity.
8. If items that are being submitted as stored material are intermixed with other items on a vendor's invoice, the claimed items must be highlighted or underlined.
9. Requests for payment may not exceed eighty-five percent (85%) of the price of the item as indicated on the approved Schedule of Values.
10. When a vendor's invoice lists two or more separate items that are component parts of a single line item previously submitted on the Schedule of Values, a "Supplemental Schedule of Values Sheet" must be submitted and approved prior to payment for the individual items. Line items with differing unit prices must be shown as separate items on the Supplemental Cost Breakdown Sheet. Each component part must be shown as an individual item.
11. The completed Stored Materials Form, submitted with the Invoice, must also have the following documents attached:
  - a. Vendor's Invoice
  - b. Photographs of material and its location
  - c. Fire and theft insurance policy rider for the materials
  - d. Evidence of payment, or when payment has not been made, a letter on the contractor's letterhead authorizing payment to be made jointly to the contractor and the supplier.
  - e. Power of Attorney (from bonding company)

**E. Payroll Affidavit, Contractor's Affidavit and Statement of Surety Company / Power of Attorney**

1. A Final Invoice must be accompanied by a completed Payroll Affidavit, Contractor's Affidavit and Statement of Surety Company / Power of Attorney. If this Form is not submitted with the Final Invoice, the sum of \$500 will be withheld until the form is submitted.
2. The Payroll Affidavit section of the form need not be completed, if the prevailing minimum wage scale does not apply. However, a statement must be made by the Contractor on the reverse side of the Payroll Affidavit, indicating that the prevailing minimum wage scale does not apply.

3. A copy of this form should be retained by the Contractor, and an original and two copies must be forwarded with the Invoice. A copy of the Power of Attorney must be attached to each Statement of Surety Company section.

**F. Small Diverse Business and Small Business Utilization Report**

1. A Small Diverse Business Utilization Report must be submitted within 30 calendar days prior to submitting an invoice. If this Report is not submitted as noted, you will not be able to submit an Invoice. Time for payment does not start until such time as an acceptable invoice is submitted to the Department.

**G. For Each Invoice**

1. Contractor shall provide the invoice based upon work completed since last invoice. Prior to submission of the Invoice by the Contractor, the following documents shall be included as attached documents in this order:
  - a. Prevailing Minimum Wage Certificate
  - b. Small Diverse Business Utilization Report – This is submitted prior to an invoice and is a check box when starting an invoice process. If a SDBUR form has not been submitted within 30 days of an invoice process, the invoice will not be accepted by the Department and time for payment will not start until the Contractor submits the SDBUR form.
  - c. Stored materials information (if applicable)
    1. Power of Attorney (from bonding company)
    2. Vendor's Invoice
    3. Photographs of material and its location
    4. Fire and theft insurance policy rider
    5. Evidence of payment, or when payment has not been made a letter on Contractor's letterhead authorizing payment to be made jointly to the contractor and the supplier
  - d. Payroll Affidavit, Contractor's Affidavit and Statement of Surety Company / Power of Attorney (if Final Invoice)
  - e. Notarized LLC-25 for Commonwealth funded projects or WH-347 for federal funded projects (if Final Invoice)
2. Upon Final Inspection, the monetary amount to be retained shall be adjusted to reflect the actual amounts retained, as set out in the various sections of the General Conditions of Contract. The pertinent pages of the punch list, including the Professional's Certificate detailing the uncompleted items and value, pending credit change orders, liquidated damages, claims, etc., must be attached to the Invoice. The items indicated on the punch list shall not be paid until completed in their entirety. As the paperwork items are completed, change orders and extensions of time are approved, claims resolved, the retained amount may be reduced accordingly. The pertinent pages of punch list shall be attached with a strikethrough the items acceptably completed and/or approved. The adjusted retained amount should then be calculated, inserted and highlighted on the copies of the punch list attached to the Invoice. The adjusted retained amount must equal the amount shown on the schedule of values.

## ADMINISTRATIVE PROCEDURE NO. 8

### CHANGES IN CONTRACT WORK (FIELD ORDERS/CHANGE ORDERS)

- A. Any change to Project Contract must be documented by issuance of a Change Order. All Change Orders are to be started and processed electronically. All information and required fields for the Change Order process shall be completed by the initiator prior to submitting it.
- B. A Change Order may be commenced by the Professional, DMVA Personnel, and under limited circumstances, the Contractor.
- C. The Professional is required to provide an opinion as to the reason that the Change Order is required. The Professional must provide detailed explanation supporting the Change Order.
- D. DMVA will review the Change Order and make a final determination on cause based upon on all applicable factors including input provided by the Professional.
- E. Professional's Cost Guesstimate
  1. The Professional must provide their best estimate of the cost to perform the subject Change order work. DMVA secures Project Funds based on the Professional's Guesstimate amount, so the Professional should use whatever means are necessary to provide the most accurate Guesstimate possible.
  2. In the event the Professional disagrees with the need or legitimacy of the subject Change Order, they are still required to provide a Guesstimate cost to perform that work. That Guesstimate shall be based solely on the cost value of the work. The legitimacy of the Change Order request shall have no bearing on this Guesstimate cost figure. DMVA reserves the right to secure funds at the Contractor's cost breakdown figure in lieu of the Professional's Guesstimate cost figure for any Contractor originated Change Order request disputed by the Professional.
- F. A detailed cost breakdown shall be attached to the Change Order by the Contractor for any changes to the Prime Contractor's scope of Work utilizing the format established by the sample change order included in this Administrative Procedure.
  1. **Material Costs** - The Cost Breakdown shall list, as a minimum for each material item used, the material description, the unit, (U) used to detail quantity, the quantity, (Q) showing the total amount of that unit, the unit cost, (MU) and the individual cost total, (Q x MU). The Cost Breakdown shall then include the total of all the individual cost totals which is defined as the pre-mark-up cost total. The Contractor may optionally provide (but is not required to provide) the applicable labor hours per material unit (HU) and the respective labor extension for that unit (Q x HU). If the Contractor chooses to provide unit labor information in the material section, the total hours of labor shown must match the total labor hours shown under the LABOR section of the cost breakdown. The total material cost will be the sum of the pre-mark-up material cost total plus the sales tax mark-up plus the overhead, general support and profit mark-up.
    - i. DMVA will not acknowledge or honor any separate line items in the Cost Breakdown for such freight charges.
    - ii. The Contractor is entitled to and may claim the following mark-up for material listed on the Cost Breakdown:
      - a. state and local sales tax equal to the applicable sales tax rate times the pre-mark-up material cost total listed;
      - b. mark-up material cost total plus the sales tax mark-up, overhead, general support and profit equal to 10% times the sum of the pre-markup material costs.

2. **Labor Costs** - The Cost Breakdown shall include for each labor classification listed, the number of workers, duration of work for each worker, the total labor hours (H), the classification description, the hourly base wage rate paid (BR), the total hourly wage rate paid (WR), the base rate individual cost (H x BR) and the wage rate individual cost (H x WR). The Cost Breakdown shall then include the total of all the individual base rate costs (TBR) and the total of all the individual wage rate costs. (TWR) The hourly base wage rate (BR) is defined as the rate of wages paid by the employer directly to the employee. The total hourly wage rate (WR) is defined as the total rate of wages paid by the employer including wages paid directly to the employee (BR) plus any employer participation or contribution to employee benefits paid on behalf of the employee. DMVA acknowledges that for certain Contractors the base rate (BR) and the wage rate (WR) are equivalent. The total labor cost will be the sum of the total wage rate cost (TWR) plus the total mandated burden mark-up (TMB) plus the overhead, general support and profit mark-up.
  - i. DMVA will not accept or reimburse line items for travel, lodging and per-diem. Exceptions may be made on a case-by-case basis for instances including use of a specialty out-of-state, or non-local Sub-Contractor for Change Order Work, or in the event that the Change Order Work is being issued after Project Final Completion and the Prime Contractor claims travel and lodging costs in lieu of remobilization costs.
  - ii. The Contractor is entitled to and may claim the following mark-up for labor listed on the cost breakdown:
    - a. mark-up for mandatory labor burden costs including (and limited to) social security, federal and state unemployment taxes, workmen's compensation insurance and public liability insurance. The allowable mark-up for each is equal to the applicable social security, unemployment compensation tax, workmen's comp. insurance, or public liability insurance rate times the total base rate cost (TBR) not the total wage rate (TWR). DMVA will disallow any excessive burden mark-up calculated as a percentage of the TWR (excepting those instances where the TBR and TWR are identical). DMVA will also not honor any mark-up for types of labor burden additional to those listed;
    - b. mark-up for overhead, general support and profit equal to 15% times the sum of the total wage rate cost (TWR) plus the total mandated burden mark-up (TMB). The total mandated burden mark-up is defined as the total of all the allowable individual burden costs for social security, unemployment compensation tax, workmen's compensation insurance and public liability insurance.
3. **Equipment Costs** The Cost Breakdown shall include for each piece of equipment used to perform the subject work, the description of the piece of equipment used, the quantity of that particular piece used, the duration the piece of equipment was used, the rental rate for the duration used and the total rental cost. DMVA expects the Contractor to procure/provide the most economical rental rate available over the duration of the work performed. For example, if the piece of equipment was used over a four-week period, DMVA will expect a monthly rate in lieu of a daily or weekly rate, if the monthly rate is more economical than the other two rates.
  - i. DMVA will not pay equipment costs for any piece of equipment not specifically identified, or for any tools such as hand tools used in the everyday performance of contract work.
  - ii. The Contractor may claim sales tax paid for any piece of equipment rented from an outside (non-Contractor owned) rental agency provided that a receipt showing the sales tax paid amount accompanies the cost breakdown. DMVA will disallow sales tax for any rental item without such proper verification.
  - iii. The Contractor may claim mark-up for overhead, general support and profit equal to 10% times the sum of the total rental costs plus the total applicable sales tax. The total rental costs are the sum of all the individual rental costs. The total applicable sales tax is the sum of all the individual verified sales taxes
4. **Subcontractors** – A detailed cost breakdown or acceptable alternate quote from the Subcontractor is required for any detailed cost breakdown from the Prime Contractor showing that any or all of the Change

Order work is being performed by the Subcontractor. An acceptable alternate quote is defined as a lump sum cost quotation provided by the Sub-Contractor on Sub-Contractor letterhead paper which details the exact scope of work to be done by the Contractor including detailed information of quantities and description of material items installed. DMVA will consider the lump sum cost to be inclusive of all material, labor and equipment costs including all applicable markups for overhead, profit, general support, total mandated burden, taxes and bond adjustment to which the Sub-Contractor is entitled as defined within this manual section. For breakdowns containing work performed by one or more Sub-Contractors and the Prime Contractor, the Prime is responsible for clarifying somewhere in the breakdown, the exact scope of work being performed by the Prime and each Sub-Contractor. In the absence of such clear definition of work scopes, DMVA reserves the right to disallow any Prime Contractor labor hours charged for Change Orders where it appears that all of the work is being performed by the Sub-Contractor.

- i. The Prime Contractor may claim mark-up for overhead, general support and profit equal to 10% times the sum of the total costs realized by the Prime's Sub-Contractor in performance of the work. Any Sub-Contractor receiving work from the Prime Contractor (or another Sub-Contractor) who in turn subs that work to another Sub-Contractor may claim mark-up for overhead, general support and profit equal to 10% times the sum of the total costs realized by the Sub's Sub-Contractor in performance of the work.
5. **Verifications** -In order for DMVA to verify the individual wage rates, mandated burden rates and bond rates claimed by the Contractor, the Contractor will provide the following to be attached to the detailed cost breakdown accompanying the **first Change Order** for each Contract: The verification documentation listed above comprises what DMVA considers to be the standard for verification of a given rate. DMVA will consider for submittal, alternatives to those standards provided that those alternatives furnish the same conclusive, independent substantiation provided by the replaced standard. Acceptance of alternative verification documentation will be made exclusively by DMVA Office of Facilities and Engineering and will be reviewed on a case-by-case basis.
- i. **Base Rate** - The Prime Contractor shall provide a copy of a Certified Payroll which shows total wages, hours worked and resulting wage rate being paid directly to the Prime Contractor's employee for each Prime Contractor's labor classification being used in the performance of the Change Order work. DMVA considers the Certified Payroll to be the LIPW-128 Form or equivalent. The Prime Contractor has the option to submit BASE RATE VERIFICATION for all Prime Contractor labor classifications at the time the first Change Order is submitted or individual BASE RATE VERIFICATIONS may be submitted with subsequent Change Orders as labor classifications unique to those used in performance of the first Change Order are required for performance of those subsequent Change Orders. In lieu of proper verification, DMVA will apply as Contractor's Base Rate, the Prevailing Wage Hourly Rate as determined in the Specifications.
  - ii. **Wage Rate** - The Prime Contractor shall provide to DMVA, written documentation showing the dollar per hour rate of employer contributions made on behalf of the employee towards the employee's benefits. DMVA will accept as such documentation, either a written excerpt from a labor contract/agreement identifying mandatory benefits, or a certified statement from the Prime Contractor's independent Auditor which outlines actual costs for benefits. This Employee Benefit Rate (EBR) contribution must represent moneys that are not paid directly to the employee but are paid to a separate source maintaining the benefits. This documentation should itemize all individual benefits contributed to by the employer. The documentation should list the employer dollar per hour contribution to each individual benefit and the total dollar per hour contribution for all the benefits combined. The total dollar per hour contribution is the employee Benefit Rate (EBR). Upon receipt of such acceptable documentation, DMVA will consider the Prime Contractor's Wage Rate (WR) to be equal to the Contractor's verified Base Rate (BR) plus Employee Benefit Rate (EBR). This can be represented mathematically as:  $WR = BR + EBR$ . In lieu of proper verification, DMVA will apply as Contractor's Wage Rate, the Prevailing Wage Total Rate as determined in the Specifications.



- iii. **Unemployment Tax Rate** -To substantiate the State Unemployment Tax (SUTA) employer contribution rate, the Prime Contractor shall submit a copy of the effective Contribution Rate Notice issued from the Department of Labor & Industry. Any claimed Federal Unemployment Tax (FUTA) employer contribution will be consistent with the rate as determined in the current I.R.S. Circular 'E', Employer's Tax Rate Guide. Since the FUTA employer contribution is applicable only for the first few thousand dollars of annual employee wages (currently the first \$7,000), DMVA reserves the right to ask for verification of the employee's annual wage records if FUTA is claimed by the Prime Contractor.
- iv. **Workmen's Comp Rate** - The Prime Contractor shall submit a copy of the Workmen's Compensation Insurance Policy that shall verify the basic rate, all individual discounts (such as premium and payment), modifier(s) and resulting final adjusted rate.
- v. **Public Liability Insurance** - The Prime Contractor shall submit a copy of the paid insurance premium which shows the total premium paid, the total payroll on which the premium was paid and the resulting rate.
- vi. **Bond Rate** - The Prime Contractor shall submit an invoice from the Surety Company showing the total bond paid, the total contract amount on which the bond was paid and the resulting bond rate.
- vii. **Subcontractor's Rates** - Generally, DMVA will not require the Prime or Sub-Contractor to submit verification of rates claimed (in Sub-Contractor's Cost Breakdown) by any of the Prime's Sub-Contractor's performing work for a given Change Order. However, in the event that a certain Sub-Contractor is being used continually by the Prime to perform Change Order work and/or if that Sub-Contractor's rates appear excessive to DMVA, DMVA reserves the right to ask the Prime Contractor to procure and submit to DMVA, verification of rates used by the Sub-Contractor in question. This information shall be submitted to DMVA only upon DMVA request.

#### EXAMPLE COMPLETED COST BREAKDOWN

ABC GENERAL CONTRACTORS

			<u>MATERIAL</u>		<u>LABOR HOURS (OPTIONAL)</u>	
<u>QTY.</u> (Q)	<u>UNIT</u> (U)	<u>DESCRIPTION</u>	<u>UNIT COST</u> (MU)	<u>COST TOTAL</u> (Q x MU)	<u>HOURS/UNIT</u> (HU)	<u>TOTAL HOURS</u> (Q x HU)
8000	S.F.	1/2" GYPSUM WALL BOARD	\$0.15	\$1,200.00	.008	64
15	EACH	DOUBLE HUNG WINDOWS	\$120.00	\$1,800.00	.800	12
PRE-MARK-UP MAT'L. COST TOTAL				\$3,000.00	TOTAL LABOR HRS.	76
6% SALES TAX				\$180.00		
SUBTOTAL				\$3,180.00		
10% OVERHEAD, GEN. SUPT. & PROFIT(ON SUBTOTAL)				\$318.00		
<b>TOTAL MATERIAL COST</b>				<b>\$3,498.00</b>		

			<u>LABOR</u>				
<u>NUMBER OF WORKERS</u>	<u>DURATION</u>	<u>HOURS</u> (H)	<u>CLASSIFICATION</u>	<u>HOURLY BASE RATE</u> (BR)	<u>TOTAL HOURLY WAGE RATE</u> (WR)	<u>BASE RATE COSTS</u> (H x BR)	<u>WAGE RATE COST</u> (H x WR)
2	38	76	CARPENTER	\$20.27	\$30.59	\$1,540.52	\$2,324.84
TOTAL LABOR HOURS		76	TOTAL BASE RATE COST (TBR)		\$1,540.52		
TOTAL WAGE RATE COST (TWR)						\$2,324.84	

<u>RATE</u>	<u>MANDATED BURDEN</u>	
7.65%	SOCIAL SECURITY (ON TOTAL TBR)	\$117.85
12.39%	UNEMPLOYMENT TAXES (ON TOTAL TBR)	\$190.87
8.90%	WORKMEN'S COMP. INS. (ON TOTAL TBR)	\$137.11
2.46%	PUBLIC LIABILITY INS. (ON TOTAL TBR)	\$37.90
TOTAL MANDATED BURDEN (TMB)		\$483.73
SUBTOTAL LABOR COSTS (TWR + TMB)		\$2,808.57
15% OVERHEAD, GEN. SUPT. & PROFIT(ON SUBTOTAL)		\$421.29
<b>TOTAL LABOR COST</b>		<b>\$3,229.86</b>

			<u>EQUIPMENT</u>	
<u>DURATION</u>	<u>QTY.</u>	<u>EQUIPMENT</u>	<u>RENTAL RATE FOR DURATION</u>	<u>RENTAL COST</u>
N/A	1	N/A	N/A	N/A
% SALES TAX (IF RENTED)				
SUBTOTAL EQUIPMENT COST				
10% OVERHEAD, GEN. SUPT. & PROFIT(ON SUBTOTAL)				
<b>TOTAL EQUIPMENT COST</b>				<b>\$0</b>

<u>SUBCONTRACTORS (IF APPLICABLE)</u>		
<u>COMPANY</u>	*Total Cost From Attached Sub-Contractor's Detailed Breakdown	* <u>TOTAL COST</u>
XYZ Paving		\$31,973.26
	SUBTOTAL	\$31,973.26
	10% OVERHEAD, GEN. SUPT. & PROFIT(ON SUBTOTAL)	\$3,197.33
	<b>TOTAL SUBCONTRACTS</b>	<b>\$35,170.59</b>

<u>SUMMARY</u>	
TOTAL MATERIAL	\$3,498.00
TOTAL LABOR	\$3,229.86
TOTAL EQUIPMENT	N/A
TOTAL SUBCONTRACTS	\$35,170.59
LESS DEDUCTS (Explain Separately)	N/A
SUBTOTAL	\$41,898.45
2.0% BOND COST ADJUSTMENT(ON SUBTOTAL)	\$837.97
<b>TOTAL PROPOSAL</b>	<b>\$42,736.42</b>

Contractor's Signature

XYZ PAVING (SUB-CONTRACTOR)

		<u>MATERIAL</u>			<u>LABOR HOURS (OPTIONAL)</u>	
<u>QTY.</u> (Q)	<u>UNIT</u> (U)	<u>DESCRIPTION</u>	<u>UNIT COST</u> (MU)	<u>COST TOTAL</u> (Q x MU)	<u>HOURS/UNIT</u> (HU)	<u>TOTAL HOURS</u> (Q x HU)
4900	S.Y.	3" BITUM. ASPHALT PAVING	\$4.50	\$22,050.00	.0196	96
		PRE-MARK-UP MAT'L. COST TOTAL		\$22,050.00	TOTAL LABOR HRS.	96
		6% SALES TAX		\$1,323.00		
		SUBTOTAL		\$23,373.00		
		10% OVERHEAD, GEN. SUPT. & PROFIT(ON SUBTOTAL)		\$2,337.30		
		<b>TOTAL MATERIAL COST</b>		<b>\$25,710.30</b>		

				<u>LABOR</u>			
<u>NUMBER OF WORKERS</u>	<u>DURATION</u>	<u>HOURS (H)</u>	<u>CLASSIFICATION</u>	<u>HOURLY BASE RATE (BR)</u>	<u>TOTAL HOURLY WAGE RATE (WR)</u>	<u>BASE RATE COSTS (H x BR)</u>	<u>WAGE RATE COST (H x WR)</u>
1	8	8	LAB. FOREMAN	\$16.91	\$24.80	\$135.28	\$198.40
7	8	56	LABORER	\$16.16	\$24.05	\$904.96	\$1,346.80
4	8	32	OPERATOR	\$21.03	\$31.69	\$672.96	\$1,014.08
TOTAL LABOR HOURS		96		TOTAL BASE RATE COST (TBR)		\$1,713.20	
						TOTAL WAGE RATE COST (TWR)	\$2,559.28

<u>RATE</u>	<u>MANDATED BURDEN</u>	
7.65%	SOCIAL SECURITY (ON TOTAL TBR)	\$131.06
11.91%	UNEMPLOYMENT TAXES (ON TOTAL TBR)	\$204.04
10.23%	WORKMEN'S COMP. INS. (ON TOTAL TBR)	\$175.26
3.17%	PUBLIC LIABILITY INS. (ON TOTAL TBR)	\$54.31
TOTAL MANDATED BURDEN (TMB)		\$564.67
SUBTOTAL LABOR COSTS (TWR + TMB)		\$3,123.95
15% OVERHEAD, GEN. SUPT. & PROFIT(ON SUBTOTAL)		\$468.59
<b>TOTAL LABOR COST</b>		<b>\$3,592.54</b>

<u>DURATION</u>	<u>QTY.</u>	<u>EQUIPMENT</u>	<u>RENTAL RATE FOR DURATION</u>	<u>RENTAL COST</u>	
1 DAY	1	ASPHALT PAVER 130 H.P.	\$1200.00/DAY	\$1,200.00	
1 DAY	2	STEEL WHEEL ROLLERS	\$230.00/DAY (EACH)	\$460.00	
1 DAY	1	PNEUMATIC WHEEL ROLLER	\$225.00/DAY	\$225.00	
				6% SALES TAX (IF RENTED)	\$113.10
				SUBTOTAL EQUIPMENT COST	\$1,998.10
				10% OVERHEAD, GEN. SUPT. & PROFIT(ON SUBTOTAL)	\$199.81
				<b>TOTAL EQUIPMENT COST</b>	<b>\$2,197.91</b>

<u>SUMMARY</u>	
TOTAL MATERIAL	\$25,710.30
TOTAL LABOR	\$3,592.54
TOTAL EQUIPMENT	\$2,197.91
LESS DEDUCTS (Explain Separately)	N/A
SUBTOTAL	\$31,500.75
1.5% BOND COST ADJUSTMENT(ON SUBTOTAL)	\$472.51
<b>TOTAL PROPOSAL</b>	<b>\$31,973.26</b>

- A. **Force Account Change Orders** - Force Account Records are required to substantiate time and material costs for all Force Account Change Orders which are initiated because quantities, exact scope and unit costs for work cannot be established prior to the performance of the work. The Prime Contractor and all Sub-Contractor's working under the Force Account Change Order must keep written, signed daily records of labor, material and equipment. Those records will be monitored and signed daily by DMVA Personnel. The Contractor completing the Force Account work shall identify as a minimum, the date of work performed, the contract number of DMVA Project, the description (including location) of exact work performed under Today's Work. If known, the Contractor may provide as an option, the date the work was authorized and the person authorizing the work DMVA requires as verification of material unit prices and equipment use or rental unit prices that the Contractor include receipts, invoices, truck slips, etc., along with the Force Account Daily Work Record Sheet for each material and equipment item listed on the sheet. In absence of such individual verification, DMVA reserves the right to make its own determination of proper unit rate. DMVA will make such a determination based on the most economical rate that can be applied to the total material quantities or total equipment rental/usage duration accumulated over the duration of the Change Order work. At the end of each day the Contractor or Sub-Contractor shall submit to the Project Manager, the applicable FORCE ACCOUNT DAILY WORK RECORD Sheet(s). This sheet shall contain all completed information pertaining to duration of labor and equipment usage/rental and quantities of material. The submitted sheet should be signed by the Contractor.

## ADMINISTRATIVE PROCEDURE NO. 9

### REQUEST FOR EXTENSION OF TIME CHANGE ORDER

- A. All Requests for Extensions of Time shall be prepared and submitted to the Project Manager by the Contractor.
- B. The Contractor must **verbally inform the Department at the first Job Conference after any alleged delay it has encountered**. No forms or correspondence are required at this time, however, the Contractor should verify that the verbal notification of the alleged delay has been noted in the Job Conference Report. **Within ten (10) days** after the end of the alleged delay, the Contractor must submit the EOT.
- C. **Failure to submit the form within ten days may constitute a waiver of the request and result in the denial of the request.**
- D. The Contractor must enter all required information including but not limited to, beginning date of delay, the ending date of delay, number of days delayed, cause of delay, effect on construction progress, the item of work affected, and list work items that could have been done during the delay. The Contractor must utilize the Master Project Schedule (updated and approved as of the date of the submission of the EOT request) to establish the critical activities delayed by the facts submitted with the EOT as discussed in depth in the Scheduling Article of the General Conditions. Omission of data or failure to answer any of the questions **will result in the EOT Change Order being returned** to the Contractor for completion
- E. Only one delay shall be submitted per Change Order.
- F. If explanation of the delay is lengthy, the Contractor may attach additional documentation to the Change Order. It is mandatory, however, that as much of a factual synopsis as possible be included with the submission.
- G. Claims for weather related delays must be substantiated by Weather Data, which may be secured from local weather records and/or the National Oceanic & Atmospheric Administration, National Climatic Center, Asheville, North Carolina 28801.
- H. The Professional will review an extension of time change order request. The Professional will attach any additional pertinent information and documentation required to justify and support the recommendation.

**ADMINISTRATIVE PROCEDURE NO. 10**

**SUBMISSION GUIDELINES FOR  
STEEL CERTIFICATIONS FOR PROJECTS  
PURSUANT TO THE STEEL PRODUCTS PROCUREMENT ACT  
73 P.S. §1881, ET SEQ.**

**GENERAL INFORMATION CONCERNING THE STEEL PRODUCTS PROCUREMENT ACT AND STEEL  
CERTIFICATIONS**

- A. All Prime Contractors shall submit Steel Certification forms. Only one fully-executed certification form for each product must be submitted.
- B. According to Section 1886 of the Steel Products Procurement Act (the Act), cast iron products are considered to be steel products. The appropriate certification form, therefore, is required to be submitted for cast iron products.
- C. Aluminum and brass products are not steel products; therefore, steel certification forms are not required for such items.
- D. Pursuant to Section 1884(b)(2) of the Act, DGS has created a list of exempt machinery and equipment steel products, which is posted on the DGS website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us). If a product to be utilized on the project appears on the exemption list, steel certification forms are not required.
- E. Modification or alteration of the Steel Certification forms is strictly prohibited.
- F. If the entity executing an ST form has a corporate seal, that seal should be impressed in the signature area of the form. The signatures on the ST forms do not have to be notarized, but they must be original signatures. Signature stamps are not acceptable; a form submitted with such a stamp will be rejected.
- G. Questions regarding steel certification submissions and/or compliance with the Act shall be submitted **in writing** to the Project Manager as soon as possible after the Initial Job Conference. DMVA will investigate and render a response in a timely fashion.
- H. **Nothing in this Administrative Procedure should be construed as relieving any prime contractor, subcontractor, supplier or fabricator from complying with the requirements of the Act. Steel Certification forms must be submitted and approved by Departmental personnel before a steel product arrives on site. Any contractor entering into a purchase order for a "steel product" prior to submitting acceptable steel certifications does so at its own risk and faces penalties which include, but are not limited to, nonpayment, and/or replacement costs, and/or debarment. If steel products are incorporated into the project prior to the submission of proper certification, the contractor assumes the full risk of nonpayment, replacement costs and/or debarment if the products are not certifiable.**
- I. No Invoice containing steel products will be processed until the appropriate steel certification form(s) has been approved by the Department.
- J. **Domestic availability will be determined as of the date the ST-4 form is submitted to DMVA for approval.**
- K. The forms that follow ST-1 through ST-4 - have been developed by the Department of General Services for use on the Department's projects alone. The Department assumes no responsibility or liability for any use of these forms on the public works projects of any other entity subject to the Act.
- L. The North American Free Trade Agreement (NAFTA) does not supersede or preempt the Act.

## ST-1

**THIS FORM MUST BE FILLED OUT FOR EACH "STEEL PRODUCT"  
ON A DMVA PROJECT UNLESS OTHERWISE NOTED.**

### SECTION A

**Line #1** This is the Prime Contractor's formal business name. If a sub's name appears on this form, the form must be rejected and resubmitted.

**Line #2** This is the prime contractor's business address.

**Line #3** This is the prime contractor's business phone number.

**Line #4** This is the date the ST form is submitted to DMVA.

**Line #5** This is the DMVA contract number for the project.

**Line #6** This is the DMVA project description.

**Line #7** This is the "steel product" being certified, such as an I-beam, angle, bolt, channel, etc. The prime contractor may not fill in the line with a description like "structural steel", heating unit" or "air conditioning system".

**LINE #7 IS THE MOST CRITICAL PART OF THE FORM.  
FAILURE TO PROPERLY FILL OUT LINE #7 ON EACH ST FORM  
MAKES THE ENTIRE FORM INVALID AND A NEW FORM MUST BE SUBMITTED.**

**NOTE:** The prime contractor does not have to submit a form for each piece of steel which is being put into the project. The prime contractor only has to submit an ST form for each type of steel product. For example, if the project needs 56 I-Beams of varying lengths, the contractor must submit **1 ST form** for "steel I-Beams" with a listing of the various sizes covered by that ST form. The contractor does not submit 56 ST-1 forms. If, on the other hand, only 30 of the I-Beams are identifiable (stamped) structural steel, the contractor submits an ST-1 form with Section B(1) marked off. The other 26 I-Beams are non-identifiable structural steel, so the contractor must also submit an ST-1 with Section B(2) marked off and attached the appropriate supporting documentation.

If the contractor is using different suppliers, each supplier must submit the appropriate steel form.

**Line #8** This is the fabricator or supplier of the product listed on Line #7.

### SECTION B

**ONLY ONE OF THESE ITEMS CAN BE CHECKED AS APPLICABLE**

\_\_\_\_\_ **1. Identifiable Steel Product**

This type of steel product is limited to products which are stamped "made in the USA" or otherwise identifiable as U.S. Steel.

**a) supporting documentation:** Prime Contractor only needs to submit the ST-1 form. DMVA field personnel will verify the markings when product arrives on-site.

**2. Non-identifiable Structural Steel Product**

This type of steel product is limited to items of structural steel which are not marked as made in USA.

**a) supporting documentation:** Prime contractor must also submit, attached to the ST-1 form, bills of lading, invoices and mill certificates.

**3. Non-identifiable, Non-structural Steel Product**

This type of steel product is every product which is non-structural steel, including, but not limited to, doors, door frames, windows, machinery and equipment.

**a) supporting documentation:** Fully executed ST-2

**b) NOTE:** A steel product may not appear on any Invoice until such time as the ST-1 and ST-2 are accepted by DMVA.

**SECTION C**

1. Language – **No modifications, cross-outs or alterations of any type may be made to the language of this certification paragraph.**
2. Signature – Two signatures are required on the ST-1 form. The Prime Contractor's President/Vice President must sign on one line **and** the Secretary or Treasurer must sign as a witness. The names should be typed or printed beneath the signature lines. Failure to type in the names **does not** invalidate the ST form.



**ST-1 STEEL ORIGIN CERTIFICATION: PRIME CONTRACTOR**

This form must be executed by the Prime Contractor and submitted to the APM within 30 days from the date the Professional approves a submittal listing a "steel product". No steel product may be delivered on-site unless DMVA has received an ST form. A completed form is required for each type of steel product (e.g., beams, columns, stairways, etc.), from each supplier but not for each piece of steel product.

**A. TO BE COMPLETED BY THE PRIME CONTRACTOR:**

- 1. Name of Contractor's firm \_\_\_\_\_
- 2. Firm's address: \_\_\_\_\_
- 3. Firm's phone number: \_\_\_\_\_ 4. Date submitted: \_\_\_\_\_
- 5. Contract No. \_\_\_\_\_ 6. Contract Title \_\_\_\_\_
- 7. Steel Product Certified: \_\_\_\_\_
- 8. Name & Address of Supplier: \_\_\_\_\_

**B. TYPE OF STEEL PRODUCT (Check and complete one (1) applicable category):**

- 9. \_\_\_\_\_ **Identifiable steel product:** 100% of the steel in the product is identifiably marked as manufactured in the United States.
  - a. Other documentation required: **NONE**
  - b. Manner in which steel product is identifiable:
    - (1) \_\_\_\_\_ Stamped "Made in U.S.A."
    - (2) \_\_\_\_\_ Stamped "Made in \_\_\_\_\_."
    - (3) \_\_\_\_\_ Other: Explain: \_\_\_\_\_
- 10. \_\_\_\_\_ **Non-identifiable structural steel:** Less than 100% of the steel contained in the product is identifiable as provided above. Structural steel is defined as steel products used as a basic structural element of a project (i.e., steel beams, columns, decking, stairways, reinforcing bars, structural lintels, pipes, etc.)
  - a. Other documentation **required:** Bills of lading, invoices and mill certificates that certify that the steel contained in the product was melted and/or manufactured in the United States.
- 11. \_\_\_\_\_ **Non-identifiable non-structural steel:** all other steel products including door and window frames, machines, equipment, etc.
  - a. Other documentation **required:** Executed Form ST-2

**CERTIFICATION:** I, the undersigned office of the Contractor, do certify that, to the best of my knowledge, the steel product listed above complies with the provisions of the Steel Products Procurement Act (73 P.S. § 1881, et seq., as amended). I understand that by signing this document I certify that the facts contained herein are true. I further understand that this document is subject to the provision of the Unsworn Falsification to Authorities (18 P.S. § 4904) and the Steel Products Procurement Act, which provides penalties including, but not limited to, debarment from bidding on any Commonwealth of Pennsylvania public works project for a period of five years. I agree to provide documentation supporting these facts if requested by the Commonwealth. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

**WITNESS:**

\_\_\_\_\_  
Name:  
Secretary or Treasurer

\_\_\_\_\_  
Name: \_\_\_\_\_ (Seal)  
President or Vice President

## ST-2

This form must be filled out for non-identifiable, non-structural steel products.

### **SECTION A      To be filled out by the Purchaser, the firm that pays the Fabricator**

**Line #1** This is the name of the firm that is dealing directly with the Fabricator

**Line #2** This is the purchaser's mailing address.

**Line #3** This is the purchaser's business phone.

**Line #4** This is the date the ST-2 form is sent to the fabricator.

**Line #5** This is the DMVA contract number or the project.

**Line #6** This is the DMVA project description.

**Line #7** This is the "steel product" being certified, such as a chiller, condenser, hollow metal doors. The prime contractor may not fill in the line with a description like "structural steel", "heating unit" or "air conditioning Unit". The model number, if any, of the steel product must be listed as indicated.

**LINE #7 IS THE MOST CRITICAL PART OF THE FORM.  
FAILURE TO PROPERTY FILL OUT LINE #7 ON EACH ST FORM  
MAKES THE ENTIRE FORM INVALID AND A NEW FORM MUST BE  
SUBMITTED.**

### **SECTION B      To be filled out by the Fabricator, the firm that assembles the product listed on Line #7.**

**Line #1** This is the Fabricator's name.

**Line #2** This is the Fabricator's mailing address.

**Line #3** This is the Fabricator's business phone.

**Line #4** This is the date the Fabricator receives the ST-2 from the Purchaser.

**Line #5** This is the Fabricator's Federal I.D. number.

### **SECTION C**

1. Language – **No modifications, cross-outs or alterations of any type may be made to the language of this certification paragraph.**
2. Signature – Two signatures are required on the ST-1 form. The Prime Contractor's President/Vice President must sign on one line and the Secretary or Treasurer must sign as a witness. The names should be typed or printed beneath the signature lines. Failure to type in the names **does not** invalidate the ST form.

**ST-2 STEEL ORIGIN CERTIFICATION:**  
**NON-IDENTIFIABLE, NON-STRUCTURAL STEEL**

This form must be executed by the Purchaser and the Fabricator of any item containing steel that is not structural steel. This form must be submitted to the APM within 30 days from the date the Professional approved a submittal listing a "steel product". No steel product may be delivered on-site unless DMVA has received the ST form. Structural steel is defined as steel products used as a basic structural element or a project (i.e. steel beams, columns, decking stairways, reinforcing bars, pipes, etc.). Purchasers of structural steel products (contractors or subcontractors) **must** provide bills of lading, invoices **and** mill certifications that the steel was manufactured in the United States instead of this form. The Fabricator shall be herein defined as the firm that assembles the component parts of the product to be purchased. The Department of Military and Veterans Affairs will accept the certification of firms that are earlier in the chain of purchase (i.e. manufacturers of components, steel suppliers) in lieu of the Fabricator.

**A. TO BE COMPLETED BY THE PURCHASER:**

1. Name of purchasing firm: \_\_\_\_\_
2. Firm's address: \_\_\_\_\_
3. Firm's phone number: \_\_\_\_\_ 4. Date submitted to Fabricator: \_\_\_\_\_
5. Contract No. DMVA \_\_\_\_\_ 6. Contract Title: \_\_\_\_\_
7. Steel Product Certified: \_\_\_\_\_

Model: \_\_\_\_\_

---

**B. TO BE COMPLETED BY THE FABRICATOR/MANUFACTURER:**

1. Name of firm: \_\_\_\_\_
2. Address of firm: \_\_\_\_\_
3. Firms phone number: \_\_\_\_\_ 4. Date Received: \_\_\_\_\_
5. Federal Employer ID. No: \_\_\_\_\_

**CERTIFICATION:** I, the undersigned officer of the Fabricator/Manufacturer, do certify that our firm assembled/fabricated the components to the steel products listed in Section A, Item 7, and that all steel components therein are comprised of steel that is melted and/or fabricated in the United States. I understand that, by signing this document, I certify that I have received assurances from the suppliers/manufacturers of the components that said components do not contain foreign manufactured steel. I further understand that this document is subject to the provisions of the Unsworn Falsification to Authorities Act (18 P.S. § 4904). I also understand that I am subject to the provisions of the Steel Products Procurement Act (73 P.S. § 1881, et. seq.) which provides penalties including, but not limited to, debarment from supplying any products for Commonwealth of Pennsylvania Public works projects for a period of five (5) years for violations therein. I agree to provide documentation supporting these facts if requested by the Commonwealth. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

**WITNESS:**

\_\_\_\_\_  
Name:  
Secretary or Treasurer

\_\_\_\_\_  
Name:  
President or Vice President

(Seal)

## ST-3

### 2-STEP ELIGIBILITY ANALYSIS:

#### **BEFORE A PRIME CONTRACTOR CAN SUBMIT AN ST-3, THE FOLLOWING ANALYSIS MUST BE SATISFIED**

**STEP #1:** The contractor must establish that the “product” **contains BOTH:**

- Steel melted in the USA

AND

- Foreign Steel

Note: Step #1 focuses upon the **content** of the “product”.

Note: The % need not be close; it can be 99-1, so long as there is both foreign and domestic steel in the “product”.

**STEP #2:** The contractor must establish that 75% of the **cost** of the “product” has been mined, produced or manufactured in the USA.

**Note:** Step #2 focuses upon the cost of the entire “product”, not just the steel within it.

### SECTION A

**Line #1** This is the Prime Contractor’s name.

**Line #2** This is the Prime Contractor’s business address.

**Line #3** This is the Prime Contractor’s phone number.

**Line #4** This is the date the ST-3 is submitted to the fabricator.

**Line #5** This is the DMVA contract number for the project.

**Line #6** This is the DMVA project description.

**Line #7** This is the “steel product” being certified, such as a chiller, condenser, hollow metal doors. The prime contractor **may not** fill in the line with a description like “structural steel”, “heating unit” or “air conditioning unit”. The model number, if any, or the steel product must be listed as indicated.

**LINE #7 IS THE MOST CRITICAL PART OF THE FORM.  
FAILURE TO PROPERLY FILL OUT LINE #7 ON EACH ST FORM  
MAKES THE ENTIRE FORM INVALID AND A NEW FORM MUST BE  
SUBMITTED.**

**SECTION B** To be filled out by the Fabricator/Manufacturer, the firm that fabricates the product listed on Line A7.

**Line #1** This is the Fabricator's name.

**Line #2** This is the Fabricator's business address.

**Line #3** This is the Fabricator's business phone.

**Line #4** This is the date the Fabricator receives the ST-3 from the purchaser.

**Line #5** This is the Fabricator's Federal I.D. Number.

**Line #6** The Fabricator must insert the percentage of the cost of the articles, materials and supplies which have been mined, produced or manufactured in the U.S. for the product listed on Line A7.

**SECTION C**

1. Language – **No modifications, cross-outs or alterations of any type may be made to the language of this certification paragraph.**
2. Signature – Two signatures are required on the ST-3 form. The Fabricator's President/Vice President must sign on one line **and** the Secretary or Treasurer must sign as a witness. The names should be typed or printed beneath the signature lines. Failure to type in the names does not validate the ST form.

**NOTES on ST-3 Forms:**

- It is not necessary to submit an ST-1 with the ST-3.
- **DMVA reserves the right to request additional documentation to support the percentage specified on Line 14. If the Fabricator/manufacturer refuses to produce such documentation and/or DMVA deems it to be in the Commonwealth's best interests, DMVA may request the Office of Inspector General to investigate the submission of the ST-3 form.**

**ST-3**  
**75% U.S. MANUFACTURE CERTIFICATION**

The Steel Products Procurement Act (73 P.S. § 1881, et. seq.) allows the use of steel products with **both** foreign and domestic steel **if at least 75 percent of the cost** of the materials (including steel, rubber, wood, plastics, etc.) in the product are manufactured or produced, as the case may be, in the United States.

**This form must be executed by a Fabricator of any item containing BOTH U.S. AND FOREIGN STEEL.** The fabricator shall hereby be defined as the firm that assembles the component parts of the product to be purchased. The Department of Military and Veterans Affairs will accept the certification of firms that are **earlier** in the chain of purchase (i.e., manufacturers of components, steel suppliers) in lieu of the Fabricator.

**This form must be submitted to the APM within 30 days from the date the Professional approves a Submittal listing a "steel product". No steel product may be delivered on-site unless DMVA has received an ST form.**

**A. TO BE COMPLETED BY THE PRIME CONTRACTOR (PURCHASER):**

1. Name of Contractor: \_\_\_\_\_
2. Address of Contractor: \_\_\_\_\_
3. Phone Number: \_\_\_\_\_ 4. Date submitted to Fabricator: \_\_\_\_\_
5. Contract No. DMVA: \_\_\_\_\_ 6. Contract Title: \_\_\_\_\_
7. Steel Product Certified: \_\_\_\_\_  
Model: \_\_\_\_\_

**B. TO BE COMPLETED BY THE FABRICATOR/MANUFACTURER:**

1. Name of Firm: \_\_\_\_\_
2. Address of Firm: \_\_\_\_\_
3. Firm's Phone number: \_\_\_\_\_ 4. Date Received: \_\_\_\_\_
5. Federal Employer ID No. \_\_\_\_\_
6. Percentage of the cost of the articles, materials and supplies which have been mined, produced or manufactured in the U.S. for the product listed above on line A7: \_\_\_\_\_

**CERTIFICATION:** I, the undersigned Officer of the Fabricator/Manufacturer, do certify that our firm assembled/manufactured the components to the steel product listed in Section 7, that the steel in said product is both foreign and domestically manufactured, and that all the facts contained in this document are true. I agree to provide documentation supporting these facts if requested by the Commonwealth. I further understand that this document is subject to the provisions of the unsworn Falsification to Authorities Act (18 P.S. § 4904) and the Steel products Procurement Act (73 P.S. §1881, et seq.) which provide penalties including, but not limited to, debarment from supplying any products for Commonwealth of Pennsylvania public works projects for a period of five (5) years for violations therein. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

**WITNESS:**

\_\_\_\_\_  
Name:  
Secretary or Treasurer

\_\_\_\_\_  
Name: (Seal)  
President or Vice President

## ST-4

This form may be submitted in circumstances where the Prime contractor believes that the “product” on Line #7 is not made in sufficient quantities to satisfy the requirements of the contract.

The information submitted by a Prime contractor is subject to verification by the Department. Any Prime contractor who executes a Purchase Order or other type of purchase agreement encompassing a “steel product” prior to receiving the Department’s written determination that the “steel product” listed on Line #7 of the ST-4 form is not manufactured in sufficient quantity to meet the requirements of the project does so at its own risk and faces penalties including, but not limited to, non-payment for the product; removal and replacement of the product at its own costs; and/or an Office of Inspector General investigation which may lead to debarment.

**Domestic availability will be determined as of the date  
the ST-4 form is submitted to DMVA for approval**

**Line #1** this is the Prime Contractor’s formal business name.

**Line #2** This is the Prime Contractor’s business address.

**Line #3** This is the Prime Contractor’s business phone.

**Line #4** This is the date the ST-4 form is submitted to DMVA.

**Line #5** This is the DMVA contract number for the project.

**Line #6** This is the DMVA project description.

**Line #7** This is the “steel product” being certified, such as a chiller, condenser, hollow metal doors. The prime contractor may not fill in the line with a description like “structural steel”, “heating unit” or air conditioning unit”.

**LINE #7 IS THE MOST CRITICAL PART OF THE FORM.  
FAILURE TO PROPERLY FILL OUT LINE #7 ON EACH ST FORM  
MAKES THE ENTIRE FORM INVALID AND A NEW FORM MUST BE  
SUBMITTED FOR APPROVAL.**

**Line #8** These four lines, (a) through (d), are to be filled out completely by the Prime Contractor. At least four suppliers/manufacturers must be contacted by the Prime Contractor to ascertain if the “product” on Line #7 is manufactured with domestic steel.

### **CERTIFICATION**

1. Language – **No modifications, cross-outs or alterations of any type may be made to the language of this certification paragraph.**
2. Signature – Two signatures are required on the ST-4 form. The Prime Contractor’s President/Vice President must sign on one line **and** the Secretary or Treasurer must sign as a witness. The names should be typed or printed beneath the signature line. Failure to type in the names **does not** invalidate the ST form.

### **NOTE ON ST-4 FORMS:**

- It is not necessary to submit an ST-1 form with an ST-4 form.

## ST-4 NOT DOMESTICALLY MANUFACTURED: PRIME CONTRACTOR

**This form must be executed by the Prime Contractor and submitted to the APM within 30 days from the date the Professional approves a submittal listing a “steel product”. No steel product may be delivered on-site unless DMVA has received, reviewed and provided written approval of the ST-4 form. An ST-4 form can only be submitted for approval when a steel product is not domestically produced in sufficient quantities. DMVA will verify the accuracy of the information on the ST-4 form and will contact additional suppliers/manufacturers to ascertain the availability of a domestic steel product.**

1. Prime Contractor: \_\_\_\_\_ 2. Address: \_\_\_\_\_

3. Phone Number: \_\_\_\_\_ 4. Date Submitted: \_\_\_\_\_ 5. Contract No. DMVA: \_\_\_\_\_

6. Contract Title: \_\_\_\_\_ 7. Steel Product: \_\_\_\_\_

8. Suppliers/manufacturers contacted by the Prime Contractor that claimed that the above product is not produced/manufactured with U.S. manufactured steel. At least four Suppliers/Manufacturers are needed. Manufacturers listed in specifications must be contacted.

a. Firm Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Address: \_\_\_\_\_  
Person Contacted: \_\_\_\_\_ Date Contacted: \_\_\_\_\_

b. Firm Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Address: \_\_\_\_\_  
Person Contacted: \_\_\_\_\_ Date Contacted: \_\_\_\_\_

c. Firm Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Address: \_\_\_\_\_  
Person Contacted: \_\_\_\_\_ Date Contacted: \_\_\_\_\_

d. Firm Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Address: \_\_\_\_\_  
Person Contacted: \_\_\_\_\_ Date Contacted: \_\_\_\_\_

**CERTIFICATION:** I, the undersigned Officer of the Contractor, do certify that I have contacted the firms listed in Section 9, and was informed that said firms do not produce/manufacture the steel product listed on Line 7 with U.S. Steel in sufficient quantities to complete the above-referenced project. I understand that this document is subject to the provisions of the Unsworn Falsifications to Authorities Act (18 P.S. § 4904) and the Steel Products Procurement Act, which provide penalties including, but not limited to, debarment from bidding on any Commonwealth of Pennsylvania public works project for a period of five years. The Commonwealth reserves the right to pursue any action deemed necessary to protect the Commonwealth’s interest and ensure compliance with the laws of the Commonwealth.

**WITNESS:**

\_\_\_\_\_  
Name:  
Secretary or Treasurer

\_\_\_\_\_  
Name: (SEAL)  
President or Vice President



**ST-4 FORM FOR DMVA USE ONLY – CONTRACTORS – DO NOT WRITE ON THIS SIDE OF ST FORM**

A. Field Personnel                      APM: \_\_\_\_\_

1.      Date ST-4 submitted by Prime Contractor: \_\_\_\_\_
- 2.
3.      Date ST-4 forwarded to Project Manager: \_\_\_\_\_

B. Project Manager

1.      Date ST-4 forwarded to Professional: \_\_\_\_\_

C. Professional

1.      Date received from the Project Manager: \_\_\_\_\_

2.      Referred to for review: \_\_\_\_\_

3.      Additional Suppliers/Manufacturers Contacted to verify domestic availability:

    a.      Firm Name: \_\_\_\_\_ Phone: \_\_\_\_\_

            Address: \_\_\_\_\_

            Person Contacted: \_\_\_\_\_ Date Contacted: \_\_\_\_\_

    b.      Firm Name: \_\_\_\_\_ Phone: \_\_\_\_\_

            Address: \_\_\_\_\_

            Person Contacted: \_\_\_\_\_ Date Contacted: \_\_\_\_\_

    c.      Firm Name: \_\_\_\_\_ Phone: \_\_\_\_\_

            Address: \_\_\_\_\_

            Person Contacted: \_\_\_\_\_ Date Contacted: \_\_\_\_\_

D. Office of Chief Counsel      Date received: \_\_\_\_\_                      Action: \_\_\_\_\_

E. Deputy Facilities                      Date received: \_\_\_\_\_                      Action: \_\_\_\_\_

**ADMINISTRATIVE PROCEDURE NO. 11**

**FIELD DISPUTE FORM**

**A. General Information on Dispute Process**

1. The Dispute Process is set forth in detail in the Disputes Article of the General Conditions.

**ADMINISTRATIVE PROCEDURE NO. 12**  
**UTILIZATION/OCCUPANCY INSPECTION**  
**FINAL INSPECTION**  
**CONCLUSION OF FINAL INSPECTION**

**A. Utilization/Occupancy Inspection**

1. The Department may use or permit the Client Entity to use or occupy any completed or partially completed portion(s) of the Work in accordance with the General Conditions and this Administrative Procedure.
2. The request for partial occupancy by the Client Entity must be made, in writing, to the Project Manager. If permission is granted, by the Department, the Project Manager or designee will establish the date and time for an Occupancy/Utilization Inspection and will notify the following:
  - a. Deputy Facilities and Engineering
  - b. Professional
  - c. Prime Contractor(s), as required
  - d. Project Site
  - e. Client Entity
  - f. Facility
3. **The Occupancy/Utilization Inspection will be conducted to evaluate the area(s) to be occupied or equipment to be utilized for conformity to the Contract Documents. The use and/or occupancy of the work does not constitute acceptance of any portion so taken or used. The Occupancy/Utilization Inspection must be attended by the Department, the Professional, the Contractor(s) and a representative of the Using Entity.**
4. The Professional shall conduct the inspection, unless another party is designated by the Department.

**B. Occupancy/Utilization**

1. At the conclusion of the Occupancy/Utilization Inspection, the attendees shall review the responsibilities of the Contractor for maintenance, heat and utilities, the remaining items to be completed or corrected.
2. A Punch List, prepared by the Professional or designee, as determined by the Department, shall be generated and submitted. The Punch List shall indicate, in detail, all items requiring completion or correction. The failure to include an item on the Punch List will not relieve the Contractor(s) of its responsibility to complete all Work in accordance with the Contract Documents.
3. The Client Entity shall not be permitted to occupy nor utilize any portion of the Work until directed by the Department.
4. **The date of Occupancy/Utilization by the Client Entity shall be the start date of any warranties or guarantees associated with the occupied area(s) or utilized equipment.**

5. Any damage subsequent to the inspection due solely to the use and/or occupancy of the completed or partially completed portion of the Work shall not be the responsibility of the Contractor.

### C. **Final Inspection**

1. The Final Inspection for the contract shall be requested and conducted in accordance with the General Conditions and this Administrative Procedure. The Contractor's request for a Final Inspection **must be submitted electronically**.
2. **Within five (5) days of receipt of the request**, the Department will determine if the Project is at substantial completion. If determined to be at substantial completion, the Final Inspection will be conducted within ten (10) days by the Professional and Department and the following will be notified:
  - a. Deputy Facilities and Engineering
  - b. Professional
  - c. Prime Contractor(s), as required
  - d. Project Site
  - e. Client Entity
  - f. Facility
3. The Final Inspection must be attended by the Department, the Professional, the Contractor(s) and a representative of the Client Entity.
4. The Contractor shall submit, at the Final Inspection, a Final Invoice for Payment to the Project Manager. The final Invoice should be completed and submitted in its entirety.
5. The Professional, in conjunction with the Department shall conduct the Final Inspection. The inspection shall include all aspects of the Contract(s), including any areas or equipment previously occupied or utilized by the Client Entity or Department. If the work is at "substantial completion", in accordance with the definition set forth in the General Conditions, a final inspection shall be conducted at which time a punch list shall be generated.

If, through the course of the inspection, it is determined by the Professional that the work is not "substantially complete" in accordance with the definition in the General Conditions of Contract, the Professional shall notify the Department and the Contractor substantiating the reasons for the denial.

6. At the Department's discretion, the Professional shall visit the site for the purpose of verifying and accepting Punch List work. The Department will be responsible for managing the punch list completion process and requesting the Professional's presence.

### **Conclusion of Final Inspection**

1. At the conclusion of the Final Inspection, the attendees shall review all of the remaining responsibilities of the Contractor, the remaining responsibilities of the Professional, the status of all pending change orders, the status of all pending Requests for Extension of Time Change Orders, the status of any pending claims against the Department or any other Prime Contractor and any other obligations of any party necessary to fulfill the requirements of the Contract Documents. Upon completion of this review the Contractor, Professional and the Project Manager or designee shall approve the punch

list containing these items to indicate their concurrence with the remaining responsibilities of each party.

2. The Punch List shall indicate, in detail, all items requiring completion or correction and a reasonable cost of completion plus one and one-half times the aggregate value of the items.

## ADMINISTRATIVE PROCEDURE NO. 13

### SMALL DIVERSE BUSINESS and SMALL BUSINESS PARTICIPATION

- A. **General Information:** The Contractor must meet or exceed the participation percentages provided in the Small Diverse Business and Small Business Submittal by the Final Inspection of the Contract for Small Businesses and for Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Veteran Business Enterprises (VBEs), Service-Disabled Veteran Business Enterprises (SDVBEs), Disability-Owned Business Enterprise (DOBE), and LGBT Business Enterprise (LGBTBE) (together referred to hereinafter as Small Diverse Businesses) on the Project. The Contractor acknowledges that the total percentages committed to Small Diverse Businesses and Small Businesses are contractual obligations.
- B. **Contractor's Duty.**
- a. The Contractor must meet or exceed the participation percentages provided by the Final Inspection of the Contract as applied to the contract award value. This will be tracked by BDISBO through the Small Diverse Business / Small Business Utilization Report forms.
  - b. The Contractor shall submit a Small Diverse Business / Small Business Utilization Report within 30 days prior to submitting an Invoice. (See section C below).
- C. **Small Diverse Business /Small Business Utilization Report**
- a. This report must be submitted within 30 days prior to submission of each Invoice.
  - b. Each Small Diverse Business / Small Business Utilization Report must have current data (totals to date) identifying at least each element as follows:
    1. Detailed information including, but not limited to, any subcontracts and purchase orders documenting the dollar value commitments to Small Diverse Business and Small Business firms to be used toward the satisfaction of the Contractor's participation percentages. All Small Diverse Businesses and Small Businesses identified on the Utilization Report shall be retained on the Utilization Report throughout the duration of the Project.
    2. **Construction Subcontracts and Purchase Orders:**
      - a. All Subcontract/Purchase Orders awarded to date are \$ \_\_\_\_\_
      - b. Commitment total to Small Diverse Businesses to date:
        - i. \$ \_\_\_\_\_
        - ii. % \_\_\_\_\_ of Contract
      - c. Commitment total to Small Business to date:
        - i. \$ \_\_\_\_\_
        - ii. % \_\_\_\_\_ of Contract
      - d. For each subcontract and purchase order awarded since the previous Invoice the:

- i. Identity and status of the Small Diverse Business as a MBE / WBE / VBE / SDVBE / DOBE / LGBTBE that will be performing the work; and
  - ii. Identity of the Small Business that will be performing the work; and
  - iii. The type of work/service/material to be performed/supplied; and
  - iv. The amount paid to date on each Small Diverse Business or Small Business subcontract/purchase order this month.
  - v. The designation of Small Diverse Business / Small Business Stocking Suppliers as either a MEP (i.e., mechanical, electrical, and plumbing) Stocking Suppliers or a General Construction Stocking Supplier.
  - vi. The fee or commission paid to the Nonstocking Supplier. No participation credit will be given if the fee or commission is not listed and, the maximum credit shall not exceed 10 percent of the purchase order cost.
- c. Failure to submit a Small Diverse Business / Small Business Utilization Report within thirty (30) days prior to submittal of an Invoice will result in the Invoice not being able to be submitted.

**D. The Contractor's Commitments Toward Their Submitted Participation Percentages will be Calculated and Credited as follows:**

- a. Only DGS self-certified Small Businesses and/or DGS-verified Small Diverse Businesses can be credited toward satisfying the participation percentages.
- b. Small Diverse Business and Small Business (SDB/SB) subcontractors performing at least sixty percent (60%) of the subcontract with their own employees will be credited toward the participation percentages at 100 percent of the total dollar value of the subcontract/supply contract. Any SDB/SB subcontract, where the subcontractor performs less than 60% of the subcontract, will not be credited toward the participation percentages.
- c. SDB/SB stocking suppliers are credited at 60 percent of the total cost of the materials or supplies purchased. A stocking supplier is a regular dealer that owns, operates, or maintains a store, warehouse, or other establishment, in which the materials or supplies of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
- d. SDB/SB nonstocking suppliers are credited at only the amount of the fee or commission charged by the SDB/SB nonstocking supplier for assistance in the procurement of the materials and supplies provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services and under no circumstances shall the credit, for a SDB/SB nonstocking supplier, exceed 10% of the purchase order cost. A nonstocking supplier does not carry inventory but orders materials from a manufacturer, manufacturer's representative or a stocking supplier. In order for a nonstocking supplier to receive credit, it must perform a useful business function by engaging in meaningful work (i.e., negotiating price; AND determining quality and quantity; AND ordering materials; AND paying for the materials) and the fee or commission must be provided with the purchase order and the Small Diverse Business / Small Business Utilization Report. Industry practices and other relevant factors will be considered.

- e. SDB/SB manufacturers are credited at 100 percent of the total cost of the materials or supplies purchased.
- f. The Contractor is allowed to use contract amounts at any tier of supply or subcontracting; however, the dollar value of any commitment to an SDB/SB cannot be double counted.
  - i. If the Contractor or any of its non-SDB/SB Subcontractors or Suppliers makes a commitment to a SDB/SB, the credit for the subcontract/purchase order commitment, regardless of the level or tier, shall be calculated as indicated in Section D and credited toward the Contractor's participation percentages.
  - ii. In the event that the SDB/SB whose entire subcontract value is counted towards the Contractor's participation percentages and then subcontracts a portion of the work or supplies associated with this subcontract to another SDB/SB, the dollar value of the subcontract with/to this lower tier SDB/SB is NOT counted in the Contractor's participation percentages in order to prevent the duplicate counting of SDB/SB commitment dollars. In this case, the dollar value of this subsequent SDB/SB subcontract has already been included within the scope of work and dollar value of the SDB/SB commitment already counted as a part of the Contractor's participation percentages.
- g. To assist the Contractor, the Contractor should request all Small Diverse Businesses to present a photocopy of their current DGS-issued "Notice of Small Business Self-Certification and Small Diverse Business Verification," to the Contractor. **The verification must be current as of the subcontract / purchase order execution date, not revoked, lapsed or pending in order to obtain credit for the commitment. However, BDISBO will check its database for all firms listed on the Utilization Report and BDISBO's decision will govern.**
- h. To assist the Contractor, the Contractor should request all Small Businesses to present a photocopy of their current DGS-issued "Notice of Small Self-Certification" to the Contractor. **The certificate must be current as of the subcontract / purchase order execution date, not revoked, lapsed or pending, in order to obtain credit for the commitment. However, BDISBO will check its database for all firms listed on the Utilization Report and BDISBO's decision will govern.**
- i. A Contractor's Small Diverse Business participation percentage is calculated by adding all or a percentage of the dollar commitments (as described in this section D) to DGS-verified Small Diverse Business subcontractors of all tiers, DGS-verified Small Diverse Business manufacturers, DGS-verified Small Diverse Business stocking suppliers, and the fee or commission paid to the DGS-verified non-stocking supplier and dividing that total amount by the total contract award price.
- j. A Contractor's Small Business participation percentage is calculated by adding all or a percentage of the dollar commitments (as described in this section D) to self-certified Small Business subcontractors of all tiers, self-certified Small Business manufacturers, self-certified Small Business stocking suppliers, and the fee or commission paid to the self-certified non-stocking supplier and dividing that total amount by the total contract award price.



- k. Upon receipt of the Contractor Small Diverse Business / Small Business Utilization Report, BDISBO will verify the certification status of the subcontractor, manufacturer, stocking supplier, or non-stocking supplier. Once reviewed by BDISBO, the dollar value of the subcontract or purchase order, or a percentage thereof, shall be calculated as part of the total dollar value of the Small Diverse Business or Small Business participation percentage.

#### **E. Remedies**

- a. If the Small Diverse Business / Small Business Utilization Report is not submitted within thirty (30) days prior to the submittal of an Invoice, the Invoice will not be able to be submitted.
- b. If after the first three months following Contract execution, the Contractor fails to progress in achieving the minimum participation percentages (based upon the data supplied in the Small Diverse Business /Small Business Utilization Report), the DMVA may withhold payments until the Contractor and DMVA discuss the reasons for lack of progress and achieve a resolution. The Contractor is not entitled to interest on any funds withheld due to their failure to submit a properly completed Small Diverse Business / Small Business Utilization Report or their failure to progress in achieving the participation percentages.
- c. The Contractor's compliance with requirements of the Small Diverse Business and Small Business participation component, including the fulfillment of any Small Diverse Business or Small Business commitments in all subcontracts and purchase orders is material to the contract between the Contractor and the DMVA. Any failure to comply with these requirements constitutes a substantial breach of the Contract. It is further understood and agreed that in the event the DMVA determines that the Contractor has failed to comply with these requirements, the DMVA may, in addition to any other rights and remedies the DMVA may have under the contract, any bond filed in connection therewith, or at law or in equity, impose remedies as applicable on the Contractor. Remedies for breach of this component may include entry into the CRP, termination, suspension, default, penalties, and/or debarment from future contracting opportunities with the Commonwealth of Pennsylvania. The remedies enumerated herein are for the sole benefit of the DMVA and the DMVA's enforcement of any provision or the DMVA's indulgence of any non-compliance with any provision hereunder shall not operate as a waiver of any of the DMVA's rights in connection with the Contract, nor shall it give rise to actions by any third parties, including any Small Diverse Business or Small Business enterprises.

**DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

**GENERAL CONDITIONS  
OF THE CONSTRUCTION CONTRACT**

**2019 Edition**

**FORT INDIANTOWN GAP  
ANNVILLE, PENNSYLVANIA**

# GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## TABLE OF CONTENTS

### ARTICLE 1: DEFINITIONS

### ARTICLE 2: EXECUTION, CORRELATION, INTENT AND INTERPRETATIONS

- 2.1. Contract Execution
- 2.2. Contract Administration
- 2.3. Contract Interpretation
- 2.4. Contract Organization
- 2.5. Contract Detail
- 2.6. Contract Errors or Conflicts
- 2.7. Ownership and Availability of Contract Documents
- 2.8. Contract Notifications

### ARTICLE 3: THE PROFESSIONAL

- 3.1. Administration of Contract
- 3.2. Professional Site Visits
- 3.3. Professional Access to Work
- 3.4. Professional Interpretation of Documents
- 3.5. Rejection or Stoppage of Work
- 3.6. Professional Review of Change Orders
- 3.7. Non-Conforming Work
- 3.8. Record Documents
- 3.9. Professional Not Responsible for Contractor Means/Methods/Techniques
- 3.10. Professional Not Responsible for Contractor Acts or Omissions
- 3.11. Contractor Not an Intended Third Party Beneficiary of the Professional Agreement
- 3.12. Replacement of Professional

### ARTICLE 4: THE DEPARTMENT

- 4.1. Easements and Rights of Access
- 4.2. Administrative Procedures
- 4.3. Separate Prime Contracts
- 4.4. Department Not Responsible for Contractor Means/Methods/Techniques
- 4.5. Department is Not Responsible for Contractor Acts or Omissions
- 4.6. Department's Access to the Work
- 4.7. Department's Use and/or Occupancy of the Work

### ARTICLE 5: THE CONSTRUCTION MANAGER

- 5.1. Information and Services Required of the Construction Manager
- 5.2. Construction Manager's Access to the Work
- 5.3. Replacement of Construction Manager
- 5.4. Construction Manager Not Responsible for Contractor Acts or Omissions
- 5.5. Contractor Not An Intended Third Party Beneficiary of the CM Agreement

### ARTICLE 6: THE CONTRACTOR

- 6.1. Review of Contract Documents and Site Conditions
- 6.2. Duty to Coordinate the Work with Other Prime Contractors
- 6.3. Project Coordination
- 6.4. Coordination
- 6.5. Coordination of Subcontractors

- 6.6. Means, Methods and Techniques of Construction
- 6.7. Use of Site
- 6.8. Mobilization
- 6.9. Job Conferences
- 6.10. Contractor's Staff and Phone Numbers
- 6.11. Drawings and Specifications at the Site
- 6.12. Provision of Labor and Materials
- 6.13. Responsibility for those Performing Work
- 6.14. Equipment and Materials
- 6.15. Supervision
- 6.16. Good Order Among Employees
- 6.17. Permits and Fees
- 6.18. PCCA/UCC Inspection & Compliance with Applicable Laws, Ordinances and Regulations, etc.
- 6.19. Surveys, Laying Out and Execution of the Work
- 6.20. Discrepancy or Interference with or by the Work of Other Contractors
- 6.21. Existing Utilities and Services
- 6.22. Interruption of Existing Services
- 6.23. Contractor Performing Excavation or Demolition
- 6.24. Observation and/or Inspection of the Work by Others
- 6.25. Coordination Drawings for Sleeves and Openings
- 6.26. Cutting and Patching of Non-Roof System Work
- 6.27. Cutting and Patching of Roof Systems
- 6.28. Cleaning The Project
- 6.29. Repair of Damaged Work
- 6.30. Chases and Openings
- 6.31. Chases and Openings after Construction of Walls
- 6.32. Tests
- 6.33. Special Testing
- 6.34. Certificates of Inspection
- 6.35. Observation of Testing
- 6.36. Effect of Tests
- 6.37. Environmental Quality Control
- 6.38. Solid Waste
- 6.39. Compliance with Statutes and Regulations Administered by DEP
- 6.40. Burning of Materials
- 6.41. Suspension from Metal Roof Decks – New and Existing
- 6.42. Asphalt or Tar Kettles
- 6.43. Insulation
- 6.44. Enforcement of Insulation Requirement
- 6.45. Landscaping Products Recycled Content
- 6.46. Construction Products Recycled Content
- 6.47. Storage Enclosure
- 6.48. No Storage in Existing Buildings
- 6.49. Operations and Maintenance Instruction Manuals
- 6.50. Record Drawings
- 6.51. Warranty and Guarantee
- 6.52. Taxes
- 6.53. Offset of Amounts Due to Commonwealth
- 6.54. Nondiscrimination and Sexual Harassment
- 6.55. Contractor Evaluations
- 6.56. Background Checks

**ARTICLE 7: SUBCONTRACTORS**

- 7.1. Contractor's Interest in Subcontractor/Supplier
- 7.2. Subcontractor/Supplier Responsibility

- 7.3. Contractor Responsibility for Actions and Compliance
- 7.4. Acts and Omissions of Subcontractor
- 7.5. Subcontracts and Purchase Orders
- 7.6. No Contractual Relationship Between Department and Subcontractor
- 7.7. No Contractual Relationship Between Department and Supplier or Manufacturer
- 7.8. Payment of Subcontractors by Contractor Governed by Prompt Payment Schedule
- 7.9. Failure of Department to Make Progress Payment
- 7.10. Insurance Receipts
- 7.11. Percentage of Completion
- 7.12. No Obligation on Part of Department to Pay Subcontractor, Supplier, or Manufacturer
- 7.13. Subcontractor, Supplier, and Manufacturer Claims

**ARTICLE 8: PROJECT SCHEDULE**

- 8.1. Department Reservation of Rights
- 8.2. Time Is of the Essence
- 8.3. Commencement of Off-Site Work if Letter of Intent Issued
- 8.4. Commencement of Off-Site Work if Letter of Intent Not Issued
- 8.5. Initial Job Conference
- 8.6. Commencement of On-Site Work
- 8.7. Project Schedule Preparation
- 8.8. Work During Formation of Project Schedule
- 8.9. Department Reservation of Rights
- 8.10. The Department Shall Own the Float
- 8.11. Scheduling Disputes
- 8.12. Maintaining the Project Schedule
- 8.13. Project Schedule Updating
- 8.14. Recovery Plan
- 8.15. Requests for Extensions of Time Change Order
- 8.16. Effect of Grant of Extensions of Time Change Orders to Other Contractors
- 8.17. Extensions of Time Change Orders and Impact on Schedule
- 8.18. Delays and Extensions of Time
- 8.19. Unfavorable Weather
- 8.20. Extensions of Time Not an Admission of Liability for Delay

**ARTICLE 9: SUBMITTALS & COORDINATION DRAWINGS**

- 9.1. Submittals
- 9.2. Submittal Schedule
- 9.3. Coordination and Sequencing of Submittals
- 9.4. Coordination Drawings
- 9.5. Standard of Quality
- 9.6. Substitution of Materials

**ARTICLE 10: PROTECTION OF PERSON & PROPERTY AND INSURANCE  
AND INDEMNIFICATION**

- 10.1. Safety Precautions and Programs
- 10.2. Safety Overview
- 10.3. Safety of Persons and Property
- 10.4. Compliance with Safety Laws
- 10.5. Employee Safety Orientation & Safety Meetings
- 10.6. First Aid Treatment
- 10.7. Project Equipment
- 10.8. Employee and Visitor Dress Requirements
- 10.9. Emergency Notification
- 10.10. Compliance with Safety Requirements
- 10.11. Explosives
- 10.12. Remediation of Damages

- 10.13. Loads
- 10.14. Contractor's Liability Insurance
- 10.15. Insurance Limits
- 10.16. Certificates of Insurance
- 10.17. Commercial General Liability and Property Damage Liability Insurances
- 10.18. Property Insurance
- 10.19. Commercial Automobile Liability Insurance
- 10.20. Unmanned Aircraft Systems/Unmanned Vehicles/Drones Insurance
- 10.21. Risk to Construction Work
- 10.22. Unacceptable Surety or Insurance Company
- 10.23. Indemnification
- 10.24. Indemnification Not Limited by Employee Benefits Acts
- 10.25. Indemnification Does Not Cover the Construction Manager's or the Professional's Actions
- 10.26. Workforce Drug & Alcohol Policy

**ARTICLE 11: CHANGES IN THE WORK**

- 11.1. Changes
- 11.2. Cost of Change Order
- 11.3. Disagreement as to Cost or Credit
- 11.4. Unit Prices Set Out in Bid or Proposal
- 11.5. Unclassified Excavation
- 11.6. Concealed Conditions
- 11.7. No Claims for Additional Cost or Time
- 11.8. Minor Changes in the Work
- 11.9. Directive to Commence Change Order Work

**ARTICLE 12: NON-CONFORMING WORK AND CORRECTIONS**

- 12.1. Work Covered Contrary to Request
- 12.2. Uncovering of Work
- 12.3. Correction of Work Rejected by the Department
- 12.4. Correction of Work after Acceptance
- 12.5. Correction at No Cost to Department
- 12.6. Cost of Damage to Other Contractors' Work
- 12.7. Failure to Correct Defective or Non-Conforming Work
- 12.8. Investigation by the Department
- 12.9. Acceptance of Non-Conforming Work
- 12.10. Department's Right to Carry Out the Work
- 12.11. Obligations of Contractor Not Limited by this Article

**ARTICLE 13: PAYMENTS AND COMPLETION**

- 13.1. Schedule of Values
- 13.2. Invoice for Progress Payments
- 13.3. Contractor Warrants Title to all Work Passes Free of Liens
- 13.4. Neither Payment Nor Occupancy Constitutes Acceptance of Work not in Conformance with Contract Documents
- 13.5. Payments Withheld
- 13.6. Payment Made when Grounds are Resolved
- 13.7. Retainage
- 13.8. Money Withheld Due to Claims of One Prime Based on Delay of Another Contractor
- 13.9. Department Does Not Make Payment
- 13.10. Work Cannot Be Completed Through No Fault of Contractor
- 13.11. Final Payment Not Due Until Conditions Met
- 13.12. Release of Funds if Delay in Inspection Not Due to the Contractor's Fault
- 13.13. Final Payment as Waiver of Claims
- 13.14. Acceptance of Final Payment as Waiver of Claims

**ARTICLE 14: PROJECT CLOSEOUT**

- 14.1. Closeout Generally
- 14.2. Final Inspection

**ARTICLE 15: SUSPENSION**

- 15.1. Suspension of Work Due to Unfavorable Conditions or Weather
- 15.2. Suspension of Work Due to Fault of Contractor
- 15.3. Suspension of Work for the Convenience of the Department
- 15.4. Resumption of Work

**ARTICLE 16: TERMINATION OF CONTRACT**

- 16.1. Termination for the Convenience of the Department
- 16.2. Effect of Termination for Convenience of the Department
- 16.3. Contractor's Default
- 16.4. Unpaid Contract Balance
- 16.5. Surety Replacement of Contractor
- 16.6. Surety's Failure to Provide Replacement Contractor
- 16.7. Department's Right of Recovery

**ARTICLE 17: DISPUTES**

- 17.1. Contractor Must Carry on Work During the Dispute Process
- 17.2. Contractor Request for Department to Withhold Funds Due to Damage by Other Contractor(s)
- 17.3. Arbitration of Disputes Between Contractors
- 17.4. Dispute Resolution is a 3-Step Process
- 17.5. Step 1: Field Dispute Review Meetings
- 17.6. Step 2: Claim Conference
- 17.7. Step 3: Filing a Claim at the Board of Claims

**ARTICLE 18: COMMISSIONING**

- 18.1. Scope of Work
- 18.2. Procedure
- 18.3. Payment for Commissioning

**ARTICLE 19: MISCELLANEOUS CONDITIONS**

- 19.1. Project Sign
- 19.2. Foundations for Mechanical Equipment
- 19.3. Sanitary Facilities
- 19.4. Sanitary Facilities After Lines Installed
- 19.5. Hoisting Facilities
- 19.6. Temporary Ventilation
- 19.7. Work Beyond Limit of Contract
- 19.8. Advertising
- 19.9. Federal A.S.T.M. and Other Specifications
- 19.10. Storage and Stockpiling on Roofs
- 19.11. Audit of Records
- 19.12. Temporary Traffic Control
- 19.13. Reduction of Noises
- 19.14. Visible Dust Emissions

**ARTICLE 20: LEGAL MATTERS**

- 20.1. No Estoppel or Waiver of Legal Rights
- 20.2. Law of the Place
- 20.3. Successors and Assigns
- 20.4. Claims for Damages: Legal Relations and Responsibilities

- 20.5. Royalties and Patents
- 20.6. Personal Responsibility and Work Opportunity Reconciliation Act
- 20.7. Public Works Employment Verification Act
- 20.8. Steel Products Procurement Act
- 20.9. Prevailing Minimum Wage Predetermination
- 20.10. Tobacco Use on Project Site
- 20.11. Right-to-Know Law
- 20.12. Non-Appropriation Clause
- 20.13. Compliance with Law
- 20.14. Contractor Responsibility Provision



# GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1: DEFINITIONS

Whenever in this Contract the following words and expressions occur, they have the following meanings, which shall be construed in conjunction with the applicable definitions of the Commonwealth Procurement Code:

- 1.1 **ADMINISTRATIVE PROCEDURES:** The Department's construction procedures manual to be followed for various administrative functions, as set forth therein.
- 1.2 **AGREEMENT FOR PROFESSIONAL SERVICES:** The Agreement for Professional Services and any Special Conditions, in addition to any Amendments, between the Department and the Professional. The Agreement for Professional Services is commonly referred to as the "Agreement" or "Professional Agreement".
- 1.3 **AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES:** The contract, including any amendments, between the Department and its Construction Manager for Construction Management Services.
- 1.4 **APPLICATION FOR PAYMENT (A.K.A. INVOICE OR INVOICE APPROVAL-PAY APPLICATION):** The information submitted by the Contractor pursuant to the Administrative Procedure for Department's review and/or release of payment.
- 1.5 **BENEFICIAL OCCUPANCY:** The date upon which the Professional certifies, and the Department concurs that the Work is sufficiently complete, in accordance with the Contract Documents, so that the Client Entity may use, occupy or operate the Project as fit for the use for which it was intended. The Department, in its sole discretion, reserves the right to designate a portion of the Project for the Professional's certification of beneficial occupancy.
- 1.6 **BI-WEEKLY:** An event occurring every two weeks.
- 1.7 **CHANGE ORDER:** A written order signed by the Department directing the Contractor to make changes that the Contract authorizes the Department to order. The change order may be either with the consent of the Contractor or a unilateral order by the Department. The Contract Sum may only be changed by Change Order.
- 1.8 **CLIENT ENTITY:** This term refers to any executive entity, government body, federal Entity, federal-affiliated entity, state-affiliated entity, or state-related institution that will ultimately use the completed Project, which includes the Work covered by the construction contract.
- 1.9 **COMMONWEALTH:** The Commonwealth of Pennsylvania.
- 1.10 **CONSTRUCTION MANAGER:** The consultant retained by the Department to act as the Department's designee and authorized representative to manage the Project. If the Department does not retain a Construction Manager, any reference in the General Conditions to "Construction Manager" shall be interpreted to mean the Department's representative from the Bureau of Construction.
- 1.11 **CONSULTANT:** A specialist retained by the Department, the Construction Manager or the Professional for the performance of its specialty.

- 1.12 **CONTRACT:** A written agreement consisting of the Contract Documents, as defined in Article I of the Standard Construction Contract and executed by all parties in accordance with the Commonwealth Attorneys Act. The Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. To the extent that any of these documents are amended by statute, the statutory language will control.
- 1.13 **CONTRACT BONDS:** The bonds required by the Contract Documents which must be executed by one or more surety companies legally authorized to do business in the Commonwealth of Pennsylvania including, but not limited to, bonds for the faithful performance of the contract and for payment of labor and material, as required by the Department.
- 1.14 **CONTRACT COMPLETION DATE:** The date calculated by adding the Contract Duration and any approved Extensions of Time to the Construction Contract Start Date for the completion of the Work.
- 1.15 **CONTRACT DOCUMENTS:** The documents listed in Article 1 of the Standard Construction Contract. To the extent that any of these documents are amended by statute, the statutory language will control.
- 1.16 **CONTRACT DURATION:** The number of calendar days set forth in the Contract Documents for completion of the Work, also referred to as Contract Time.
- 1.17 **CONTRACT LIMITS:** The area designated in the Contract Documents as the limit of construction within which the Contractor may perform the Work.
- 1.18 **CONTRACT START DATE:** For purposes of calculating dates for completion of the Work, this is the date upon which the Initial Job Conference is held for the Project.
- 1.19 **CONTRACT SUM:** The total amount payable by the Department to the Contractor for the performance of the Work under the Contract Documents.
- 1.20 **CONTRACTOR:** The person or organization identified as such in the Contract and is referred throughout the Contract Documents, as singular in number. Unless otherwise indicated, the Contractor is a Prime Contractor. The Contractor may be referred to throughout these General Conditions as the "Prime Contractor", when the term is needed for clarity. The term "Contractors" means the group of Prime Contractors working on the Project.
- 1.21 **DAYS:** Calendar days unless specifically stated otherwise in the Contract.
- 1.22 **DEFICIENCY ITEM:** Any work or activity, either performed or unperformed, which the Department will not certify as being performed in accordance with the Contract Documents.
- 1.23 **DEPARTMENT:** The Department of Military and Veterans Affairs of the Commonwealth of Pennsylvania, also known as "DMVA", or any authorized representative or designee, and is referred throughout the Contract Documents as singular in number.
- 1.24 **DEPARTMENT'S DESIGNATED REPRESENTATIVE:** The Department's employee assigned to the Project to manage construction.
- 1.25 **DEPARTMENT OF LABOR AND INDUSTRY PLAN REVISION SUBMISSION:** The revised set of Construction documents submitted by the Professional to the Department of Labor and

Industry for approval of design and construction changes made after the UCC Building Permit is issued. This "Plan Revision Submission" is also referred to as the "Department of Labor and Industry Record Drawings" and shall be submitted in accordance with PA L&I and PA UCC requirements. Receipt of the approved Plan Revision Submission is required before an L&I Occupancy Permit will be issued

- 1.26 **EFFECTIVE DATE OF CONTRACT:** The date on which the last Commonwealth official who is required to execute the contract executes it.
- 1.27 **EXTENSION OF TIME:** A Department approval of additional calendar days to the contract duration.
- 1.28 **FIELD ORDER:** A record of a minor adjustment in the Work that results in no change in cost or duration of the Contract.
- 1.29 **FINAL INSPECTION:** A review of the Work conducted by the Professional, when requested by the Contractor, to determine whether the Project is substantially complete. If, as a result of this inspection, the Work is determined to be substantially complete, the Professional generates a certificate of completion and a Punch List of uncompleted items and a reasonable cost of completion.
- 1.30 **LABOR & INDUSTRY:** The Commonwealth of Pennsylvania's Department of Labor & Industry also referred to as "L&I".
- 1.31 **LEAD CONTRACTOR:** The Prime Contractor designated in the specifications to coordinate the progress of the Work.
- 1.32 **LETTER OF INTENT:** A letter might be issued by the Department at the time of contract award if, in the Department's sole discretion, such letter is necessary on the Project. If issued, the Contractor may rely upon the letter to initiate the scope of Work described in the letter before there is a fully executed contract with the Department and to incur costs in conducting the described scope of Work.
- 1.33 **MANUFACTURER:** A firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications and who receives compensation from the Contractor, pursuant to the terms of a purchase order or invoice, to provide any material and/or any equipment to the Project. Nothing contained in the Contract Documents between the Contractor and the Department creates any contractual relationship between the Department and any Manufacturer. A Manufacturer lacks privity of Contract to the Department and every Manufacturer agrees that it neither acquires nor intends to acquire any rights against the Department on a third party beneficiary theory or any other theory.
- 1.34 **MILESTONE:** An indication on the Project Schedule that designates the start or completion of a significant construction activity
- 1.35 **NOTICE OF DEFICIENCY:** A document to record non-conforming work, deficient work and/or schedule slippage.
- 1.36 **OFF-SITE WORK:** All Work that is not physically carried out within the Contract Limits.
- 1.37 **ON-SITE WORK:** All Work that is physically carried out within the Contract Limits.

- 1.38 **POSTCONSUMER RECOVERED PAPER:** Any paper, paperboard and fibrous wastes from retail stores, office buildings, homes and so forth, after they have been passed through their end-usage as a consumer item including: used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards and used cordage, as well as all paper, paperboard and fibrous wastes that enter and are collected from municipal solid waste.
- 1.39 **PRIME CONTRACTOR:** Any Contractor holding a Contract with the Department for construction of the Project.
- 1.40 **PROFESSIONAL:** The Commonwealth employee or the Architect and/or Engineer retained by the Department. The term may also include the Architect's and/or Engineer's authorized representative or consultant(s).
- 1.41 **PROJECT:** The total Work to be performed by all the separate Prime Contractors under the Project Number.
- 1.42 **PROJECT SCHEDULE:** The Critical Path Method (CPM) schedule prepared as a result of the affirmative contractual obligation to coordinate the Work through the cooperative efforts of each Prime Contractor on the Project.
- 1.43 **RECORD DRAWINGS:** Terminology used by the Department to identify contract prints or drawings, corrected with suitable markings to show all changes or variations from the original contract drawings, including all items uncovered during the Work and showing details of the work as actually built, including but not limited to horizontal and vertical dimensional references of all concealed pipe, conduit and other lines and equipment and similar items.
- “Record Drawings” are not the same as the Department of Labor and Industry “Plan Revision” submission.
- 1.44 **RECOVERED MATERIALS:** Waste material and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process.
- 1.45 **REQUEST FOR INFORMATION:** A written question issued by the Contractor seeking clarification of the Contract Documents.
- 1.46 **SAMPLES:** Physical examples furnished by the Contractor to illustrate materials, equipment or workmanship, and to establish standards by which the work will be judged.
- 1.47 **SMALL BUSINESS:** Those Small Businesses that have registered with the Commonwealth and completed the self-certification process on the Department of General Service's web site.
- 1.48 **SMALL DIVERSE BUSINESS:** Department verified Minority Business Enterprises (MBEs), Woman Business Enterprises (WBEs), Veteran Business Enterprises (VBEs) Service-Disabled Veteran Business Enterprises (SDVBEs), Disability-Owned Business Enterprises (DOBE), or LGBT Business Enterprises (LGBTBE).
- 1.49 **SPECIFICATION:** A description of the physical or functional characteristics or the nature of a construction item, including a description of any requirement for inspecting, testing or preparing a construction item for delivery. The specifications are a part of the Contract Documents and must be interpreted in conjunction with the other Contract Documents, as specified further in the General Conditions.

- 1.50 **SUBCONTRACTOR:** A person or organization that has a Contract with the Contractor to perform any of the Work. The term Subcontractor is referred throughout the Contract Documents as singular in number and means a Subcontractor or its authorized representative. The Contractor and every Subcontractor agree that there is no privity of contract between the Department and any Subcontractor and that, to the extent set forth by law, the Subcontractor has no direct cause of action against the Department for any claim arising out of the Project.
- 1.51 **SUBMITTALS:** Administrative or technical information, including but not limited to drawings, diagrams, illustrations, schedules, performance charts, brochures, catalog data, and other data that are prepared by the Contractor or any Subcontractor, manufacturer, supplier, or distributor, and which illustrate some portion of the Work or how it fits in relation to other parts of the Work.
- 1.52 **SUBSTANTIALLY COMPLETE:** When the Work on the Contract is sufficiently completed in accordance with the Contract Documents and certified by the Department and the Professional so that the Project or specified part(s) of the Project can be used, occupied or operated for its intended use. In no event shall a Project be certified as substantially complete until at least 90% of the Work has been completed and accepted by the Department and is capable of Beneficial Occupancy.
- 1.53 **SUB-SUBCONTRACTOR:** A person or organization that has a Contract with a Subcontractor to perform any of the Work. The term Sub-subcontractor is referred throughout the Contract Documents as singular in number and means a Sub-subcontractor or its authorized representative. The Contractor, every Subcontractor and every Sub-subcontractor agree that there is no privity of contract between the Department and any Sub-subcontractor and that, to the extent set forth by law, the Sub-subcontractor has no direct cause of action against the Department for any claim arising out of the Project.
- 1.54 **SUPERINTENDENT:** The Contractor's representative at the Project site. The Superintendent is responsible for continuous field supervision, coordination and completion of the Work, and, unless another person is designated in writing by the Contractor, for the prevention of accidents. The Superintendent shall have full authority to act on behalf of the Contractor in relation to Project activities and associated work.
- 1.55 **SUPPLIER:** An individual, firm, partnership, association, corporation or other legal entity who receives compensation from the Contractor, pursuant to the terms of a purchase order or invoice, to provide any material and/or any equipment to the Project. Nothing contained in the Contract Documents between the Contractor and the Department creates any contractual relationship between the Department and any Supplier. A Supplier lacks privity of Contract to the Department and every Supplier agrees that it neither acquires nor intends to acquire any rights against the Department on a third-party beneficiary theory or any other theory.
- A. Stocking Supplier:** a firm that owns, operates, or maintains a store, warehouse, or other establishment, in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
- B. Non-stocking Supplier:** Non-stocking supplier does not carry inventory but orders materials from a manufacturer, manufacturer's representative or a stocking supplier. In order for a non-stocking supplier to receive credit, it must perform a useful business function by engaging in meaningful work (i.e., negotiating price; and determining quality and quantity; and ordering materials; and paying for the materials).

- 1.56 **UNIFORM CONSTRUCTION CODE (UCC):** Pennsylvania's Uniform Construction Code (35 P.S. §7210.101 *et seq.*) that grants the Pennsylvania Department of Labor & Industry sole jurisdiction over state-owned buildings. A general description and important links can be found at [www.dli.pa.gov](http://www.dli.pa.gov) and clicking on the Uniform Construction Code Link. The Contractor is responsible for compliance as set forth in the UCC and these General Conditions.
- 1.57 **WORK:** The construction and services required by Contract Documents, whether completed or partially completed, including all labor, materials, equipment and services provided or to be provided by a construction contractor to fulfill its obligations. The Work may constitute the whole or a part of the Project.

## **ARTICLE 2: EXECUTION, CORRELATION, INTENT, AND INTERPRETATIONS**

- 2.1 **CONTRACT EXECUTION.** The Department and the Contractor shall sign the Contract Documents. The Professional shall seal all drawings. The Licensed Consultant(s) of the Professional shall sign and seal for their part of the Work. No oral contract or conversation with any officer, agent, or personnel of the Department, or Client Entity, or with the Professional, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations of the Contract Documents.
- 2.2 **CONTRACT ADMINISTRATION.** The Department and all Prime Contractors will ensure timely communications for the duration of this Project. Any and all notifications, requests, submittals, approvals, etc. between the Department, the Prime Contractors, the Professional, and/or the Construction Manager (if a CM is assigned to the Project) shall be in writing.
- 2.3 **CONTRACT INTERPRETATION.** The Contract Documents are complementary and what is required by any one of the Contract Documents is binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment, services and other items or conditions necessary for the proper execution and completion of the Work. Work not covered under any heading, section, branch, class or trade of the specifications need not be supplied, unless it is required elsewhere in the Contract Documents or is reasonably inferable as being necessary to produce the intended results.

The omission of words or phrases for brevity of the Contract Documents, the inadvertent omission of words or phrases, or obvious typographical or written errors shall not nullify the Department's or their representative's interpretation so long as that interpretation is reasonably inferable from the Contract Documents as a whole. Except as noted otherwise, references to standard specifications or publications or associations, bureaus, or organizations shall mean the latest edition or revision of the referenced standard specification or publication as of the date of the Invitation for Bids. Words that have well-known technical or trade meanings are used in this Contract in accordance with such recognized meanings.

In the event of conflict in the Contract Documents, the priorities stated below shall govern:

1. Addenda shall govern over all other Contract Documents, and subsequent addenda shall govern over prior addenda only to the extent modified.
2. Special Conditions shall govern over all specifications, General Conditions, and drawings.

3. Specifications and drawings shall govern over the General Conditions.
  4. If there is a conflict regarding quantities or quality of products in the Contract Documents, the higher quantity or quality product shall be delivered.
  5. **If there is a conflict between the contract drawings and the specifications, the specifications shall prevail.**
- 2.4 **CONTRACT ORGANIZATION.** The organization of the specifications into divisions, sections and articles and the arrangement of drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- 2.5 **CONTRACT DETAIL.** Where the Work is shown in complete detail on only a portion of a drawing or there is an indication of continuation, the remainder being depicted or described in an outline or schematic form, the Work drawn out in detail applies to other like portions of the structure.
- 2.6 **CONTRACT ERRORS OR CONFLICTS.** If the Contractor, in the course of construction, finds any conflict, error or discrepancy on or among the Contract Documents, such conflict, error or discrepancy shall be immediately referred in writing to the Department and the Professional. The Professional, with appropriate input from the Department, will review the matter and issue an interpretation to the Contractor in writing within seven (7) calendar days after the Professional receives the Contractor's Request for Information.
- 2.7 **OWNERSHIP AND AVAILABILITY OF CONTRACT DOCUMENTS.** The drawings and specifications will be made available for download and printing by the Contractor. All Contract Documents and any copies/prints made by the Contractor are and shall remain the property of the Department.
- 2.8 **CONTRACT NOTIFICATIONS** Any and all notifications, requests, submittals, approvals, etc. between the Department, the Prime Contractors, and the Construction Manager (if a CM is assigned to the Project) shall be submitted in writing.

### **ARTICLE 3: THE PROFESSIONAL**

- 3.1 **ADMINISTRATION OF CONTRACT.** The Professional will assist the Department and/or the Department's designee, in administering the Construction Contracts. The Professional will review and execute (if acceptable) all Department forms that require the Professional's review and signature under the Contract. The Professional will also review submittals as provided in the Submittal Article of these General Conditions. The Professional shall assist the Department, if requested, in the review of Extension of Time requests and claims of any type.
- 3.2 **PROFESSIONAL SITE VISITS.** The Professional will attend the number of meetings listed in their Agreement. The meetings include Job Conferences and all special meetings and Project Site conferences required by the Department and/or the Department's designee during periods of active construction in accordance with the terms of their Agreement. The Professional or Professional's Consultants will visit the site for a full day, up to eight hours, at such intervals and duration as deemed necessary by the Department, to review the respective phases of the Work in order to achieve the requirements of each Contract, with a maximum number of visits as set forth in the Agreement. When directed by the Department, the Professional and Professional's Consultants will attend any and all meetings and job conferences that are required by the Department. A meeting on a given day is counted as one (1) meeting regardless of the number of attendees; however, a consultant will not be required to attend more than one meeting per thirty (30) days of the

construction duration while work related to the Consultant's expertise is ongoing without an additional meeting being counted towards the number of meetings set forth in the Agreement. The Professional will review the progress of the Work, including the completeness of the construction contractors' installation drawings, and take actions necessary or appropriate to assist in achieving the compliance with the Contract Documents and submit a Progress Report.

- 3.3 **PROFESSIONAL ACCESS TO WORK.** The Professional, its Consultants and authorized representatives shall have access to the Work at all times. The Contractor shall provide the facilities for such access so the Professional may perform its functions under the Contract Documents.
- 3.4 **PROFESSIONAL INTERPRETATION OF DOCUMENTS.** The Professional is the initial interpreter of the requirements of the Contract Documents. The Professional will, within seven (7) days after receipt of a request, (in the form of a Request for Information) render an interpretation. All interpretations by the Professional will be consistent with the Contract Documents. In its capacity as interpreter, the Professional will exercise its best efforts to interpret the documents impartially. Any dispute regarding such interpretation shall be handled in accordance with the Disputes Article of these General Conditions.
- 3.5 **REJECTION OR STOPPAGE OF WORK.** Whenever the Professional observes deficiencies or observes the Contractor failing to execute the Work in accordance with the Contract Documents, the Professional will promptly notify the Contractor of all such deficiencies and will issue such notices of Non-Compliant Work that the Professional deems appropriate. The Professional will recommend rejection of work that does not conform to the Contract Documents and immediately notify the Department of the recommendation of rejection. The Professional will recommend stoppage of Contractors' work or special testing whenever such testing or stoppage is necessary, in the Professional's opinion, to achieve compliance of the finished Work with the Contract Documents. Neither the Professional's authority to make recommendations under this paragraph, nor any decision made by the Professional in good faith to either exercise or not to exercise such authority shall give rise to any duty or responsibility of the Professional to the Contractor, or any Subcontractor, any of their agents or employees, or any other person performing any of the Work.
- 3.6 **PROFESSIONAL REVIEW OF CHANGE ORDERS.** The Professional will prepare specifications and drawings necessary for the Department to authorize change orders in accordance with the Change Order Article of these General Conditions. The Professional will review all costs submitted by the Contractor for all Change Orders and advise the Department and/or the Department's designee, of the Professional's acceptance or rejection of the scope and cost of the change order within seven (7) days of the Professional's receipt of the Contractor's cost estimate. The Professional will provide written justification to the Department and/or the Department's designee to substantiate disputed costs.
- 3.7 **NON-CONFORMING WORK.** If the Professional is required to design corrective work to remedy defective or nonconforming Work by the Contractor, the cost for any and all additional professional services shall be paid by the Contractor, provided that the Professional submits those costs to the Department and the Contractor within thirty (30) days after the completion of said additional services. The Department shall review the corrective work and/or drawings that are prepared by the Professional in order to determine if the corrective work and/or drawings fall within the original scope of the Contract.
- 3.8 **RECORD DOCUMENTS.** On the day of Final Inspection, the Contractor shall deliver to the Professional a complete set of contract prints in PDF format, corrected with suitable markings to show all changes or variations from the original contract, including all items



uncovered during the work and showing the details of the work as actually built, including but not limited to horizontal and vertical dimensional references of all concealed pipe, conduit and other lines and equipment.

- 3.9 **PROFESSIONAL NOT RESPONSIBLE FOR CONTRACTOR MEANS/METHODS/TECHNIQUES.** The Professional is not responsible for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work since these are solely the Contractor's responsibilities.
- 3.10 **PROFESSIONAL NOT RESPONSIBLE FOR CONTRACTOR ACTS OR OMISSIONS.** The Professional will not be responsible for the acts or omissions of any Contractor, or any Subcontractor, or any of their agents or employees, or any other persons performing any of the Work.
- 3.11 **CONTRACTOR NOT AN INTENDED THIRD-PARTY BENEFICIARY OF THE PROFESSIONAL AGREEMENT.** The Contractor is not an intended third-party beneficiary of the Professional Agreement between the Department and the Professional. Nothing in the Contract Documents between the Department and the Contractor should be construed to authorize any person not a party to the Professional Agreement to maintain any lawsuit involving that contract, unless otherwise provided by law.
- 3.12 **REPLACEMENT OF PROFESSIONAL.** In case of the termination of the Agreement for Professional Services, if applicable, the Department may appoint a new Professional whose status under the Contract Documents shall be that of the former Professional. The decision of whether or not to terminate a Professional and appoint a new Professional rest solely with the Department.

#### **ARTICLE 4: THE DEPARTMENT**

- 4.1 **EASEMENTS AND RIGHTS OF ACCESS.** If necessary, the Department will secure and pay for easements for permanent structures with a right of access to the structures. If such easements are insufficient for the erection of temporary construction facilities and storage of materials, the Contractor shall obtain easements and space as necessary at no cost to the Department.
- 4.2 **ADMINISTRATIVE PROCEDURES.** The Administrative Procedures are included in the Contract Documents and are incorporated by reference and made a part hereof, as if fully set forth herein. In the event there is any redundancy, conflict, contradiction, discrepancy or inconsistency between any portions of or criteria set forth in the Administrative Procedures and the other Contract Documents, the most restrictive or demanding of the criteria shall take precedence over any less restrictive or less demanding criteria as determined by the Department and/or the Department's designee.
- 4.3 **SEPARATE PRIME CONTRACTS.** The Department reserves the right to award other Contracts in connection with other portions of the Project (Prime Contracts) under these or similar conditions of the Contract. When separate Prime Contracts are awarded for different portions of the Project, the "Contractor" in the Contract Documents in each case is the Contractor which signs each separate Prime Contract. Each Contractor shall have an affirmative duty to cooperate with every other Prime Contractor on the Project.
- 4.4 **DEPARTMENT NOT RESPONSIBLE FOR CONTRACTOR MEANS/METHODS/TECHNIQUES.** The Department is not responsible for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work since these are solely the Contractor's responsibilities.

- 4.5 **DEPARTMENT IS NOT RESPONSIBLE FOR CONTRACTOR ACTS OR OMISSIONS.** The Department will not be responsible for the acts or omissions of any Contractor, or any of its subcontractors, or any of their agents or employees, or any other persons performing any of the Work for the Contractor.
- 4.6 **DEPARTMENT'S ACCESS TO THE WORK.** The Department will, at all times, be provided full access to any area the Department deems necessary in order to perform its responsibilities. The Contractor shall provide the facilities for such access so the Department may perform its functions under the Contract Documents.
- 4.7 **DEPARTMENT'S USE AND/OR OCCUPANCY OF THE WORK.** The Department may use or permit the Client Entity to use or occupy any completed or partially completed portions of the Work, whether or not the time may have expired for completing the entire Work or said portions of Work. Such use or occupancy shall not be deemed an acceptance of the portion of the Work so taken or used. Prior to such use or occupancy, an assessment of the Work to be occupied by the Client Entity shall be made by the Department and the Professional to determine if it is in conformity with the Contract Documents. Any damage subsequent to the inspection due solely to the use and occupancy of the completed portion is not the responsibility of the Contractor.

## **ARTICLE 5: THE CONSTRUCTION MANAGER**

### **This Article only applies if a Construction Manager is retained for the Project**

- 5.1 **INFORMATION AND SERVICES REQUIRED OF THE CONSTRUCTION MANAGER.**
- A. If the Department retains a Construction Manager on the Project, the Construction Manager shall carry out the duties specified in the Contract acting as an agent and authorized representative/designee of the Department.
1. The Construction Manager will determine in general that the Work is being performed in accordance with the requirements of the Contract Documents, will keep the Department informed of the progress of the Work, and will endeavor to guard the Department against defects and deficiencies in the Work.
  2. The Construction Manager will assist in the coordination of the activities of all Prime Contractors. Each Prime Contractor has an affirmative duty to coordinate Work with the other Prime Contractors. Nothing in this Article relieves the Contractors of their coordination responsibilities.
  3. The Construction Manager will not have control over or charge of and will not be responsible for construction means, methods, or techniques or for safety procedures and programs in connection with the Work, since these are solely the Contractor's responsibility.
  4. The Construction Manager will review, certify and recommend to the Department payment for all acceptable Applications for Payment from the Contractor, including final payment.
  5. The Construction Manager will review and advise the Department on Change Orders.
- B. At a point in time no later than the Initial Job Conference, the Construction Manager shall provide all Prime Contractors a list of its principal staff assignments, including the Site Representative and other personnel to be in attendance at the site, identify

individuals, their duties and responsibilities and list their addresses and telephone numbers.

- C. For purposes of this Contract, the Contractor shall consider and assume that any requisite approval shall be deemed to have been given by the Department for any such authority exercised by the Construction Manager.
- D. Except as expressly stated in the Contract, the Construction Manager shall have no authority and no liability to relieve the Contractor of any of its obligations under the Contract.
- E. It is not the intention of these Contract Documents to inhibit communications between the Professional, the Construction Manager and the Contractor as it relates to clarification, interpretation and other issues related to progressing of the Work. The Professional is available to discuss issues, provided such discussions or communications are coordinated with the Construction Manager.
- F. If, in the opinion of the Construction Manager, an emergency occurs affecting the Work or adjoining property, the Construction Manager may, without relieving the Contractor of any of its duties and responsibilities under the Contract, instruct the Contractor to execute all such Work or to do all such things as may, in the opinion of the Construction Manager, be necessary to abate or reduce the risk. The Contractor shall immediately comply, despite the absence of approval of the Department, with any such instruction of the Construction Manager.
- G. The Construction Manager's Site Representative will be responsible for the Construction Management of this Project and shall carry out all required duties and exercise such authority as may be required under the terms of this Contract, including but not limited to reviewing Change Orders, Applications for Payment and Extensions of Time.
- H. The Construction Manager's Site Representative will execute the duties and authorities vested in the Construction Manager. The Construction Manager's Site Representative has been fully vested with a level of authority that is adequate to execute the requirements of the Construction Management for this Project. The Contractor is expected to and allowed to rely upon the directions that may be provided from the Construction Manager's Site Representative.
- I. Any communication given by the Construction Manager's Site Representative to the Contractor in accordance with such delegation shall have the same effect as though given by the Construction Manager or the Department.
- J. The Construction Manager may appoint any number of persons from its staff to assist in the carrying out of the Construction Manager's duties. Such assistants shall have no authority to issue any instructions to the Contractor unless such instruction may be necessary to enable the Contractor to carry out their duties and to secure their acceptance of materials, equipment or workmanship as being in accordance with the Contract, and any instructions given by any of them for those purposes shall be deemed to have been given by the Construction Manager.
- K. Any notifications and/or instructions given by the Construction Manager to the Contractor shall be in writing. If the Construction Manager considers it necessary to give any such instruction orally, the Contractor shall comply with such instruction. The Construction Manager will, within 24 hours, reduce the oral instructions to a writing.

- L. In all cases of misunderstanding and disputes, verbal instructions that were not subsequently reduced to writing as discussed above in the preceding subparagraph will not be considered binding upon the Department. The Contractor must produce evidence in support of its contentions and shall advance no claim in the absence of such evidence, or use, or attempt to use any conversation with any parties against the Construction Manager, the Professional or the Department, or in prosecuting any claim against the Construction Manager, the Professional or the Department.
- M. Wherever, under the Contract, the Construction Manager is required to exercise its discretion by:
1. Giving decision, opinion or consent; or
  2. Expressing satisfaction or dissatisfaction; or
  3. Determining value; or
  4. Otherwise taking action which may affect the rights and obligations of the Department or the Contractor,

the Construction Manager shall exercise such discretion impartially within the terms and conditions of the Contract and having regard to all the circumstances. To the extent the Contractor disagrees with the Construction Manager's determination on an issue, any such decision, opinion, consent, expression of satisfaction, or dissatisfaction, determination of value or action may be subject to the Disputes Article of these General Conditions of the Contract.

- N. The Construction Manager's failure to insist on strict compliance with any term, condition or provision of this Contract or instruction under it, or to exercise any right, remedy, privilege or power provided under this Contract, or the Construction Manager's waiver of any breach, shall not relieve the Contractor of responsibility for compliance with the Contract requirements and shall neither waive nor prevent the Construction Manager or the Department from subsequently requiring strict compliance with that term, condition, provision, instruction, right, remedy, privilege or power.

- 5.2 **CONSTRUCTION MANAGER'S ACCESS TO THE WORK.** The Construction Manager or the authorized representative of the Construction Manager, will at all times be provided full access to any area it deems necessary in order to perform its responsibilities to assist coordination of the Work. The Contractor shall provide the facilities for such access so the Construction Manager may perform its functions under the Contract Documents.
- 5.3 **REPLACEMENT OF CONSTRUCTION MANAGER.** In case of the termination of the Agreement for Construction Management Services, the Department may appoint a new Construction Manager whose status under the Contract Documents shall be that of the former Construction Manager. The decision of whether or not to replace and/or appoint a new Construction Manager or to assume construction management responsibilities is solely within the Department's discretion.
- 5.4 **THE CONSTRUCTION MANAGER NOT RESPONSIBLE FOR CONTRACTOR ACTS OR OMISSIONS.** The Construction Manager is not responsible for the acts or omissions of any Contractor, or any of its subcontractors, or any of their agents or employees, or any other persons performing any of the Work for the Contractor.
- 5.5 **CONTRACTOR NOT AN INTENDED THIRD-PARTY BENEFICIARY OF THE CONSTRUCTION MANAGER'S AGREEMENT.** The Contractor is not an intended third-party beneficiary of the Agreement for Construction Management Services between the Department and the

Construction Manager. Nothing in the Contract Documents between the Department and the Contractor should be construed to authorize any person not a party to the Agreement for Construction Management Services to maintain any lawsuit involving that contract, unless otherwise provided by law.

## **ARTICLE 6: THE CONTRACTOR**

### **6.1 REVIEW OF CONTRACT DOCUMENTS AND SITE CONDITIONS.**

- A. PROCUREMENT STAGE INVESTIGATION AND DOCUMENT REVIEW: During the procurement stage, the Contractor had an affirmative duty to examine the nature and location of the Work, the soil and rock conditions and the character, quality and quantity of the materials that are required for the Work. Any geotechnical information available for review on the Project is provided for informational purposes only; it is not to be relied upon by the Contractor. The Contractor also has a duty to carefully study and compare the Contract Documents for consistency and to the physical conditions of the job site. If the Contractor did not request a clarification during the bid stage with regard to the site conditions or discrepancies within the Contract Documents, the Contractor may not submit a claim after award of contract alleging insufficient data, ambiguity in the documents, incorrectly assumed conditions or misunderstanding.
- B. POST-AWARD INVESTIGATION AND DOCUMENT REVIEW:
1. Site Conditions – If, after award, the Contractor finds any material change in the condition of the site since the time of bidding, the Contractor must immediately inform the Professional in writing of the changed site conditions. The Professional, after consulting with and obtaining the Department's approval, and within seven (7) days after receipt of Contractor's notification, will address the alleged material change in the site conditions and notify the Contractor of such review.
  2. Contract Documents – If, after award, the Contractor contends that there are discrepancies or errors in the drawings and/or the specifications, the Contractor must submit the contention as a Request for Information to the Professional and the Department within 10 days after discovering the alleged discrepancy.
    - a. If the Department determines that the discrepancy/error constitutes a patent condition that should have been discovered during the procurement stage (See, 6.1(A)) no additional time or compensation will be granted to the Contractor.
    - b. If the Department determines the discrepancy constitutes a latent condition that would not be reasonably susceptible of being discovered during the procurement stage, the Department will consider granting additional time and/or compensation to the Contractor, depending upon the specific nature of the condition.

### **6.2 DUTY TO COORDINATE THE WORK WITH OTHER PRIME CONTRACTORS.**

- A. The Contractor explicitly acknowledges that it has a contractual duty to coordinate the Work within their Contract with the Work to be performed on the Project by all other Prime Contractors.

- B. The Contractor agrees that this duty to coordinate exists between each Prime Contractor on the Project and that each Prime Contractor is an intended third-party beneficiary of each Contract between the Department and each Prime Contractor.
  - C. The Contractor agrees that their duty to coordinate the Work includes reviewing the other Prime Contractors' submittals in for coordination purposes.
  - D. The Contractor further agrees that the efforts of the Construction Manager (if one is used) and the Department to facilitate the coordination of the Work shall not release or in any way diminish the Contractors' duty to coordinate the Work.
  - E. If the Contractor sustains any damage as a result of any act or omission of any other Prime Contractor having a Contract with the Department or through an act or omission of a Subcontractor of such Prime Contractor, the Contractor shall have no claim against the Department, the Professional or the Construction Manager for such damage, but shall have a right to recover such damage from the other Prime Contractor.
  - F. If any other Prime Contractor on the Project sustains any damage through any act or omission of the Contractor or a Subcontractor of the Contractor, the Contractor agrees to reimburse such other Prime Contractor for all such damages and to indemnify and hold the Department, the Construction Manager and the Professional harmless from all such claims.
  - G. The Contractor shall indemnify and hold the Department, the Construction Manager and the Professional harmless from any and all claims or judgments for damages and from costs and expenses to which the Department may be subjected or which it may suffer or incur by reason of the Contractor's failure to comply with directions promptly.
  - H. The exercise of the right of the Construction Manager or the Department to permit or require others to perform Work in or about the construction site shall not relieve the Contractor from any liability for loss or damage, or from any of its obligations under this Contract. No agreement or arrangement between the Contractor and others as to a division or proportionate share of liability for loss or damage incurred, or of the cost of insurance shall in any way relieve the Contractor from any liability or damage, or from any of its obligations under this Contract.
  - I. Each Prime Contractor shall afford other Prime Contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall properly connect and coordinate its Work with the Work awarded by the Department to other Contractors.
- 6.3 **PROJECT COORDINATION.** Project Coordination shall be facilitated among the Prime Contractors and professional conduct and adherence to the Contract Specifications and the General Conditions shall occur, including, but not limited to, the following subparagraphs, which shall not be construed to be the exclusive means of achieving a properly coordinated Project:
- A. Each Contractor acknowledges the complex nature of the Project, the sequential nature of the Work to be performed under all of the Prime Contracts and the concurrent operations of this Project.

- B. Each Contractor shall become thoroughly familiar with the requirements of the Contract Documents, including the General Conditions of the Contract, the Administrative Procedures of the Contract, the Project Schedule and the Scope of Work for the Project.
- C. Close coordination shall be required of each Contractor with the Construction Manager, other Prime Contractors, the Department and others having an interest in the Project to assure that Work on-site, access to and from the site and the general conduct of operations is maintained in a safe and efficient manner, and that disruption and inconvenience to existing streets and the surrounding community is minimized.
- D. Each Contractor is responsible for coordinating their Work with every Prime Contractor on this Project.
- E. The Contractor shall, whenever conditions permit, proceed without delay and maintain the Project Schedule. All operations shall be conducted so as to comply with all applicable laws, ordinances and regulations.
- F. The Contractor shall maintain free access to all buildings, gates and areas of the site for emergency vehicles, service vehicles and firefighting equipment and at no time shall block off or close roadways or fire lanes without providing auxiliary roadways and means of entrance acceptable to the Department.
- G. There may be limited parking at the site. Each Contractor and their sub-contractors must limit temporary parking of company vehicles and storage of materials as can be accommodated within the limits of the construction site and staging area as directed by the Department unless noted otherwise within the Contract Documents. All transportation to the site is the responsibility of each Prime Contractor. Contractors shall not park in spaces reserved for State employees. If more than one ticket is issued to an individual for parking violations, the Department has the authority to prohibit the owner of the vehicle(s) from continuing work at the site.
- H. Prime Contractors shall work similar hours in order to prosecute the Work under an orderly and systematic means. If there is a disagreement between Prime Contractors relative to the normal work hours, the Department shall establish the hours to be worked by all Prime Contractors. No claim of hardship shall be made by any Prime Contractor as a result of the Department's decision.
  - 1. Whenever the Contractor intends to depart from normal work hours, it shall notify the Department at least forty-eight (48) hours in advance, unless there is an emergency-type condition requiring immediate repair or attention. If such an emergency condition occurs, the Contractor shall provide immediate notification to the Department. Failure of the Contractor to give such timely notice may be cause for the Department to require the removal or uncovering of Work performed without the knowledge of the Department, at no additional costs or Extension of Time, regardless of whether or not the Work is deemed properly installed.
- I. The Contractor shall coordinate the Work with all other Contractors as outlined in the Coordination Drawings so that interference between mechanical, electrical, architectural and structural Work, including existing services, will be avoided. The Prime Contractors shall also coordinate the Work so as to provide the maximum practical space for operation, repair, removal, and testing of equipment. The Prime Contractors shall keep pipes, ducts, conduit and the like as close as possible to ceiling slab, walls, and columns to take up a minimum amount of space. The Prime

Contractors shall locate pipes, ducts, conduits and equipment so that they do not interfere with the intended use of eyebolts and other lifting devices.

- J. Particular attention shall be given to coordination and correlation of submittals as to the requirements of the Contract Documents regarding:
  - 1. Motor size;
  - 2. Motor service connections for size and type of materials;
  - 3. Equipment size and supports;
  - 4. Piping routing;
  - 5. Penetration of materials and fire stopping; and
  - 6. Connections to another Contractor's Work.
- K. Contractors shall coordinate Work to determine exact locations of outlets, pipes, diffusers and pieces of equipment to avoid interference with properly installed Work.
- L. The Contractor shall be responsible for a complete operating system as designated within the Contract Documents. Major items for Mechanical Work are specified in Division 15 and Electrical Work in Division 16. This may not be the complete extent of this Work, however, since requirements may appear in other locations within the Contract Documents. Mechanical and Electrical Work shall be verified with other sections. Contractors performing that Work shall supply sufficient information for completing the system.
- M. As various areas or parts of the site and building are complete, or otherwise suitable for the subsequent Contractors to commence Work, those Contractors shall be allowed to deliver materials and start Work. Such phased commencement shall be in accordance with the Project Schedule. Prior to commencing Work at any area or part, certain contract requirements shall be met for that area or part, such as verification of conditions as specified. Material lay down areas shall be coordinated with the Department and other Contractors.

6.4 **COORDINATION.** The Lead Contractor is principally responsible for the coordination of the Project Work. Each Contractor is to coordinate all of its Work with the Work of other Contractors for proper function and sequence to avoid construction delays. If necessary, in instances when the Lead Contractor and the other affected Prime Contractor(s), after due diligence, cannot agree on a coordination decision, the Department will upon request from one or more of the Prime Contractors, make a determination resolving the coordination issue and take whatever action(s) the Department deems necessary, including, but not limited to:

- 1. Withholding any payment otherwise due until the Contractor(s) comply with the Construction Manager's or the Department's direction; and/or
- 2. Directing others to perform portions of the Work and deducting the cost of the Work from the Contractor's Contract balance; and/or
- 3. Deleting through credit Change Orders any and all portions of the Work.

The Department's decision in no way releases the Prime Contractors from their continuing duty to coordinate the Work. The final coordination decision of the Department will be observed, accepted, and fully followed by all Contractors and their subcontractors on the Project, subject only to the disputes procedure set out in these General Conditions



of the Contract. The progress of the Work in accordance with the final coordination decisions of the Department shall not be delayed pending any such dispute proceeding.

6.5 **COORDINATION OF SUBCONTRACTORS.**

- A. The Contractor shall be responsible for all acts of its subcontractors utilized under this Contract, and for their compliance with all terms and provisions of the Contract applicable to their performance. The Contractor shall continuously coordinate the Work of all subcontractors to assure proper processing and progress of the Work. The Contractor shall require each Subcontractor to comply with the following:
1. Examine the technical submittals and the Work of other Prime Contractors and all sections of the specifications to the extent necessary for satisfactory installation of its Work, and connection between its Work and the Work of other Prime Contractors; and
  2. Coordinate its Work accordingly; and
  3. Cooperate with other Contractors and Subcontractors toward timely and satisfactory completion of the Project.
- B. Subcontractors proposed by the Contractor will not be acceptable to the Department if evidence exists or arises during the Work that the proposed subcontractors are unable or unwilling to comply with the requirements of the Contract Documents which govern the Work of the subcontractors involved, or if the Subcontractors have experience which is inconsistent with requirements for the Work of the Subcontractors. In these instances, the Contractor will not be entitled to a change in the Contract Sum or Contract Duration and shall propose substitute Subcontractors for unacceptable Subcontractors. Any delays to the Project due to the delay in proposing acceptable subcontractors is the responsibility of the Contractor.
- C. The failure of any Subcontractor to complete its portion of the Work in a satisfactory manner within the proper time will not relieve the Contractor of responsibility for the proper and satisfactory execution and completion of the entire Work.

6.6 **MEANS, METHODS AND TECHNIQUES OF CONSTRUCTION.** The Contractor is solely responsible for all construction means, methods, techniques, procedures, and safety programs in connection with the work under the Contract unless the contract documents require other and additional responsibilities from the Contractor. Neither the Professional nor the Department will be responsible for construction means, methods, techniques or procedures, or for safety precautions or programs in connection with the Work, since these are solely within the Contractor's responsibility.

6.7 **USE OF SITE.** The Contractor shall confine its apparatus, the storage of its equipment, tools and materials, and its operations and workers to the limits of contract as permitted by law, ordinances, permits, the Contract Documents and the Department. The Contractor shall not unreasonably encumber the site with any materials or equipment. The Lead Contractor shall have the authority to identify the lay down area based upon the Project Schedule.

6.8 **MOBILIZATION.** Mobilization limits shall be consistent with the description set forth in the Administrative Procedures. The following items are included as mobilization, and cannot be included separately on the breakdown:

Contractor's field office

Department's field office (unless otherwise specified in specifications)

Heating, lighting and telephone for the field offices  
Installation for the offices  
Installation of signs  
Site survey  
Construction fence, if required  
Sidewalk bridge, where required and built to all applicable OSHA requirements  
Safety and first aid equipment  
Temporary power setup  
Temporary power distribution  
Temporary water  
Temporary sanitary

- 6.9 **JOB CONFERENCES.** Job Conferences may be held as often as required, but shall normally be held bi-weekly and must be attended by all Contractors. **Regardless of the status of the Work, all Contractors must have a representative authorized to make all decisions and representations affecting the Contractor attend each Job Conference.** The names of the authorized representatives of the Contractor shall be provided to the Department at the Initial Job Conference. The Department and the Professional shall also attend every Job Conference. The Department shall schedule the dates and times of Job Conferences and notify the Contractors. Failure to attend Job Conferences or any other mandatory meeting (unless excused by the Department) constitutes a breach of this Contract.

Any delays or damages incurred by other Contractors due to the failure of a Contractor to attend the Job Conference may be deducted from the absent Contractor's balance if a Prime Contractor submits a request for such action to the Department in accordance with the Disputes Article of these General Conditions.

- 6.10 **CONTRACTOR'S STAFF AND PHONE NUMBERS.** Within ten (10) days of receipt of the Contract, the Contractor shall submit to the Department's Project Manager a maximum of three (3) proposed principal staff that will be assigned to the Project. This shall include the name, address, email address, and telephone numbers of the Contractor's Superintendent and other personnel assigned to the Project.

6.11 **DRAWINGS AND SPECIFICATIONS AT THE SITE.**

- A. The Contractor shall maintain in good order at the site, for the Department and the Professional, one (1) paper copy of all drawings and specifications. All addenda, contract modifications, change orders and requests for information shall be posted to these documents at the applicable locations. As appropriate, these documents will be updated daily to record accurately as-built conditions, selections and changes.
- B. The Contractor shall also maintain at the site one (1) paper copy of approved shop drawings, catalog data, operating and maintenance instructions, certificates, warranties, samples and similar submittals. These shall be available to the Department and Professional at all times, and they shall be delivered to the Professional as part of the Operation and Maintenance Instruction Manuals described in these General Conditions.

- C. The Contractor shall also maintain one (1) paper copy of approved coordination drawings, to include as-built conditions, selections and changes to be submitted to the Professional and included as part of the Operation and Maintenance Instruction Manuals. The Contractor shall include the value of the Record Drawings as a line item on its schedule of values, which shall be not less than 10% of the amount included for mobilization. The amount included is subject to the approval of the Department.
- 6.12 **PROVISION OF LABOR AND MATERIALS.** Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and all other facilities and services necessary for the proper execution and completion of the Work.
- 6.13 **RESPONSIBILITY FOR THOSE PERFORMING WORK.** The Contractor is responsible to the Professional, the Department and all other Prime Contractors for the acts and/or omissions of all of its employees and all subcontractors, their agents and employees, and all other persons performing any of the Work under a contract or purchase order with the Contractor.
- 6.14 **EQUIPMENT AND MATERIALS.** The Contractor shall furnish and deliver the necessary equipment and materials in ample quantities and as frequently as required to avoid delay in the progress of the Work. The Contractor's materials or equipment shall not interfere with the orderly progress of the Work, nor endanger the lives of any operators or persons within the vicinity of the stored equipment or materials, nor to cause damage to the adjacent property or highways. Any damage resulting from the operations of such equipment to any person or property is the responsibility of the Contractor in accordance with the Insurance paragraph of these General Conditions.
- 6.15 **SUPERVISION.** If a Contractor has more than one Contract on the Project, it must provide a separate Superintendent for each Prime Contract. The Contractor shall provide on-site supervision by an employee who shall act as the duly authorized and competent Superintendent. If the Contractor fails to comply with the provisions of this paragraph, the Department may: (1) withhold any payments which are or may become due to the Contractor; and/or (2) suspend the work at the expense of the Contractor, including the cost associated with the impact on the work of the other Prime Contractors; and/or (3) take a credit for each day the Contractor did not have the approved Superintendent on site.
- A. **ON SITE:** This Superintendent shall be on-site during the progress of the Work, including any time when any Work is being performed by any Prime Contractor or any subcontractor that will impact the Work of the Contractor. The Superintendent shall represent the Contractor, and all communications given to the Superintendent shall be binding as if given to the Contractor. The Superintendent must attend all Monthly Schedule Update Meetings and every bi-weekly job conference. The Monthly Schedule Update Meetings shall be scheduled and chaired by the Superintendent for the Lead Contractor.
- B. **QUALIFICATIONS:** At the Initial Job Conference, the Contractor shall submit to the Department the name and qualifications of its Superintendent. The Superintendent must meet the qualifications in the specifications and be acceptable to the Department. The Contractor shall not change its Superintendent at any time during the Project without the prior written approval of the Department, and must submit to the Department, in writing, justification for the change, along with the name and qualifications of the individual whom the Contractor proposes to be the new Superintendent. The Department reserves the right to require a change in the

Superintendent if the Superintendent's performance is deemed by the Department to be inadequate.

6.16 **GOOD ORDER AMONG EMPLOYEES.**

- A. The Contractor shall enforce good order and conduct among its employees at all times. Every employee shall be skilled in the performance of work assigned to that employee. All construction personnel shall be respectful of all Commonwealth employees and the general public.
- B. Any incidents of disrespect, verbal abuse, threatening statements, acts indicating a violation of the Contractor's Drug and Alcohol policy, unwelcome comments, unwelcome interaction or any form of harassment from any construction personnel toward any Commonwealth employee, designee employees, or the general public is strictly prohibited. Any such act shall constitute sufficient cause for the Department to demand that the Contractor dismiss the person(s) from the job site.
- C. If any Contractor's personnel ignores or refuses to take action on any requirements of the Contract Documents, ignores or refuses to take immediate action to correct any endangerment to the health and safety of the public, as solely determined by the Department then this action and/or inaction shall be sufficient cause for the Department to demand that the Contractor dismiss the person(s) from the job site.
- D. When, in the sole determination of the Department, it would be in the best interest of the Project and the Commonwealth to have a Contractor's personnel removed from the Project for the reasons described above, then the Department may demand that the Contractor dismiss from the job site. Any violation is sufficient cause for the Department to direct that the Contractor remove such person from employment on the Project, and direct that they shall not be re-employed on that Project without the consent of the Department. Such actions taken by the Department shall not constitute grounds for a delay claim. The Department will not be responsible for any delays caused to the Project due to any individual being removed from the Project.

6.17 **PERMITS AND FEES.** In compliance with the Pennsylvania Construction Code Act (PCCA), 35 P.S. §7210.101 to §7210-1103, as amended (a.k.a. Uniform Construction Code Statute or UCC), only the Department of Labor and Industry has jurisdiction for plan and specification review and inspection authority over all State-owned buildings and facilities. Consequently, Prime Contractors on Department projects shall not obtain any building permits from local authorities. The Contractor, shall, however, continue to obtain and pay all fees for all other necessary permits, licenses and certificates required by law or otherwise for the proper execution and completion of its Work. The Contractor shall furnish proof of payment for all such items, or proof that no such items are required. This proof must be furnished prior to the second Invoice. The Contractor will be reimbursed for the actual cost of such items by change order and the Contractor will not be entitled to any mark-up on the items unless otherwise authorized by the Department.

6.18 **PCCA/UCC INSPECTIONS & COMPLIANCE WITH APPLICABLE LAWS, ORDINANCES, REGULATIONS, ETC.**

- A. The Contractor shall give all notices and comply with all applicable laws, ordinances, regulations, rules and orders of any public authority bearing on the performance of the Work. If the Contractor observes any of the Contract Documents conflicting with applicable laws, ordinances, regulations, rules and orders of any public authority in any respect, it shall promptly submit a Request for Information. Any conflicts will be addressed by the Professional and Department. If the Contractor performs any work knowing it to be contrary to such applicable laws, ordinances, regulations, rules or

orders of any public authority, and without such RFI to the Department, it assumes full responsibility for that action and shall bear all costs attributable thereto.

- B. This Project shall be subject to the Pennsylvania Construction Code Act (PCCA) and the Uniform Construction Code Statute. Each Prime Contractor shall become familiar, and is responsible for complying, with all aspects of the PCCA and the UCC, including but not limited to the site inspection procedure set forth in the Department of Labor & Industry's Inspection Procedures. For purposes of inspection, the Contractor shall be deemed the "owner" as described in the PCCA/UCC. The most recent list of inspections required by L&I can be found on L&I's website.
- C. Each Prime Contractor must include the PCCA/UCC inspections (to the extent they are applicable to their scope of Work on this Project) in the Project Schedule created pursuant to the applicable paragraph(s) in the General Conditions and Administrative Procedures.
- D. The L&I mandated advance notice, defined for each inspection activity, shall be considered and included as lead time in the development of the Project Schedule. Each Prime Contractor shall assume the responsibility of the permit applicant/permit holder as applicable. Each Prime Contractor shall be responsible to contact L&I to schedule the required inspections in accordance with the inspection procedures outlined in the Building Permit. Failure by any one Prime Contractor to do so shall not be cause for a delay claim against the Department. A copy of the Building Permit, which includes a list of the required inspections and the time frames for notifying the Department of Labor & Industry, is available from the Department.
- E. Contractors shall provide 48 hours prior notice to the Department for all L&I Inspections scheduled for any portion of their work. Results of the L&I Inspection with noted deficiencies and any required re-inspection shall be provided to the Department by commencement of work the following workday.

6.19 **SURVEYS, LAYING OUT AND EXECUTION OF THE WORK.**

- A. The Contract Drawings shall be used for all dimensions in laying out the Work under this Contract.
- B. Each Prime Contractor is responsible for laying out their work from the points established by the drawings.
- C. The Contractor shall utilize a competent licensed surveyor to lay out the Work from the initial points established on the drawings.
- D. The surveyor shall take as a basis the figures on the plans, and shall lay out all intersections, all building lines at corners and centers, test and check all elevations and levels, locate levels and plumb lines of floors, walls, beams and columns and other parts of the construction as the Work progresses.
- E. All Work of every description shall be laid out by the Contractor, who is solely responsible for its correctness. The Contractor shall pay for all expenses in connection with this Work.

- F. The Contractor shall furnish approved copies of all information (site plans, technical data, topographic surveys, Record Drawings, etc.) to other Prime Contractors as necessary for the purpose of coordination of the Work. The Contractor shall submit one copy of its survey notes to the Department for record keeping. Submission of the survey notes does not relieve the Contractor of its duty to identify discrepancies on the site or in the Contract Documents.
- G. All significant monuments and benchmarks identified by the Contractor shall be preserved for use by other Contractors. Receiving these monuments and benchmarks from another Contractor does not relieve each Contractor of the responsibility for its own layout, including specific layout required by applicable sections of the Contract Documents.

6.20 **DISCREPANCY OR INTERFERENCE WITH OR BY THE WORK OF OTHER CONTRACTORS.**

- A. Since the proper execution or results of any part of the Contractor's Work will depend upon the Work of other Prime Contractor(s) (or such other Prime Contractor's Subcontractor(s)) the Contractor shall inspect and promptly report in writing to the Professional, the Department and/or the Department's designee, and the Contractor(s) whose Work is allegedly incorrect describing any discrepancies, defects or delays in the Work done by other Prime Contractor(s) that render it unsuitable for such proper execution and results.
  - 1. If the Contractor begins physical work, the Department assumes that the Contractor has inspected and reported any of these discrepancies.
  - 2. In the event that any Prime Contractor commences Work, failure of the Contractor to so coordinate, inspect and report constitutes an acceptance of the other Prime Contractor's Work as fit and proper to receive its Work. This excludes defects that may develop in the other Prime Contractor's Work after the execution of the Contractor's Work. If such defects occur, the Contractor who installed the defective Work shall be responsible to correct its Work accordingly.
- B. The Contractor's Work shall be conducted so as to not interfere with the Work of any other Contractors. In the event that any Prime Contractor does not complete the various portions of the Work in cooperation with the other Prime Contractors, and as a result, causes damages or injury to any other Prime Contractor, the damaged or injured Prime Contractor may submit a request for the Department to withhold funds, or settle by contract or arbitration such claim or dispute in accordance with the provisions of the Dispute Article of these General Conditions.
- C. Each Contractor shall be liable for all damage or destruction caused directly or indirectly (including, but not limited to delay and inefficiency claims) by its operations to all parts of the Work, both temporary and permanent, and to all adjoining property.

6.21 **EXISTING UTILITIES AND SERVICES.**

- A. The Contractor shall comply with all notification requirements established by applicable law relative to protection of underground utilities and shall also check the location of existing utilities required to remain in place, including those overhead or underground, and take all necessary precautions to prevent injury or damage during the performance of the Work.

- B. Each Contractor doing excavation work is responsible for costs associated with locating all existing underground utilities prior to commencing excavation, including utilities that are owned and operated by the Department of Military and Veterans Affairs or the Client Entity.
- C. Each Contractor shall be responsible for the associated cost of any utility interruption and repair due to this excavation if the utility location was not requested, and/or proper location procedures were not performed and/or followed prior to commencing excavation.
- D. The Contractor responsible for damaging the utility shall immediately notify the utility company and the Department and assume the cost of restoring the service of any utility disrupted due to excavation, or any Contractor action, whatever the circumstance. The Department reserves the right to immediately restore the service of any utility disrupted due to actions of a Contractor and to deduct the cost of such restoration from the responsible Contractor's next Invoice.
- E. Utilities and/or other services, which are shown, or not shown but encountered, shall be protected by the Contractor from any damage from any Work and operations of the Contract, unless or until they are abandoned. If the utilities or services are not abandoned at time of damage, the Contractor shall immediately assume the cost of repairing any damage from its Work or operations and assume the cost of restoring the utilities and services to the condition that existed prior to the damage.
- F. The Contractor and Subcontractor of any tier shall be responsible for all damage to the Project including the existing building and grounds due to its operation under this Contract. Repair or replacement of damaged items shall be to the satisfaction of the Department.

6.22 **INTERRUPTION OF EXISTING SERVICES:** Whenever it becomes necessary to interrupt existing services in use by the Client Entity, such as sewer, water, gas and steam lines, and electric service, the Contractor responsible for working outside of normal working hours shall perform the Work during such hours, as required by the Department in coordination with Client Agencies or other tenants, so as to complete the work and restore all existing services with minimal interruption or disruption to the Department, Client Agencies or other tenant. The Contractor responsible for the Work shall continue its work on a twenty-four (24) hour basis until the Work is completed and the service restored, or at such alternate time required by the **Department, its designee, or the Client Entity or other tenants**. Before beginning such Work, the Contractor shall request and receive approval from the Department to establish a time when interruption of the service will cause a minimum of interference with the activities of the Client Entity. **The Contractor's request to interrupt ANY SERVICE must be submitted to the Department in writing at least FIFTEEN (15) CALENDAR DAYS PRIOR to the date of the desired interruption.**

6.23 **CONTRACTOR PERFORMING EXCAVATION OR DEMOLITION.** The Contractor performing excavation or demolition work shall fully comply with the requirements of the Pennsylvania One Call Act (Act 287-74, approved December 10, 1974, as amended) relative to protection of underground utilities, to the extent that this language conflicts with Act 287-74, the statutory language controls. Protection of underground utilities shall include, but not be limited to:

- A. Ascertaining the approximate location and type of utility lines adjacent to and within the contract limits by inspecting drawings or obtaining a list of utility companies' lines adjacent to and within the contract limits from the County Recorder of Deeds and then contacting the utility company.

- B. Three (3) business days before excavation or demolition, request information from the utility companies regarding the steps Contractors should take to avoid damage.
- C. Provide the Department and each equipment operator or blaster with information obtained in (A) and (B) above.
- D. Report to the Department and the utility company any damage to utility line made or discovered in the course of the work.
- E. Alert the Department and any occupants of premises as to emergency created or discovered.
- F. Provisions of (A), (B) and (C) do not apply in an emergency. An emergency is any condition constituting a clear and present danger to life or property caused by escaping gas, exposed wires or other utility line breaks or defects.
- G. Each Contractor shall be responsible for all dewatering as noted under Environmental Quality Control and per the specifications.

6.24 **OBSERVATION AND/OR INSPECTION OF THE WORK BY OTHERS.** Observation of the Work by the Department or observation/inspection of the Work by the Professional shall not relieve the Contractor of full responsibility for completing the Work in accordance with the Contract Documents. Work performed without direct observation by the Department or Professional shall not relieve the Contractor of full responsibility for completing the Work in accordance with the Contract Documents. The Contractor's responsibilities include, but are not limited to, performance, supervision, scheduling and coordination of the Contractor's Work.

6.25 **COORDINATION DRAWINGS FOR SLEEVES AND OPENINGS.**

- A. Contractors requiring sleeves and openings for their work in any deck, concrete slab or wall shall furnish to the Department and all other Prime Contractors involved a complete set of location sketch drawings showing size and shape of openings. Each Prime Contractor must complete these sketch drawings in accordance with the construction schedule. Each Prime Contractor is responsible for reviewing every other Prime Contractor's drawings so that there will be no interference and/or conflict with its portion of the Work. Any potential conflict or interference shall be reported in writing to the **Lead Contractor**, with copies to the Department and the Professional. The Lead Contractor is principally responsible for coordinating and resolving any interferences and/or conflicts identified by the Prime Contractors. Disputes arising out of this paragraph shall be resolved in accordance with the Coordination Disputes paragraph of these General Conditions.
- B. The responsibility for identifying and dimensioning floor, wall, and ceiling systems penetrations lies with the Contractor whose Work penetrates these systems. The location, elevation, and dimensions of the opening, as well as installation of sleeves, fire safing, escutcheons and inserts shall be the responsibility of the Contractor requiring the opening or penetration. All Prime Contractors whose Work encompasses concrete, masonry, and ceiling installation shall provide openings required by other Contractors as agreed to in the previous paragraph.
  - 1. The need for the opening or penetration, as well as the details, shall be given to the appropriate Contractor no later than seven (7) days prior to the wall, floor, or ceiling system being formed or installed, based on the current progress of the



Work. The Contractor will be responsible to maintain the coordination of all penetrations during the construction with each other Contractor.

2. Any Contractor who fails to provide adequate notification or details to the wall, floor or ceiling Contractor shall be responsible for providing the openings in accordance with the provisions of the Cutting and Patching paragraphs of these General Conditions.
3. Cutting and Patching of penetrations through existing systems or through systems completed earlier in the Project are the responsibility of the Contractor requiring the penetration.
4. Cutting of metal deck in floors and roof openings is the responsibility of the Contractor requiring the opening. Deck shall not be removed until the day the penetration is to be made. The Contractor shall verify that conduits, piping or structural components installed above or below the deck are clear of the opening prior to cutting and patching.
5. At all openings that create a potential safety concern, the Prime Contractor who created the opening shall be responsible to provide adequate and safe protection.

6.26 **CUTTING AND PATCHING OF NON-ROOF SYSTEM WORK.** The Contractor shall, at its own cost, do all cutting, fitting and/or patching of existing materials required for its Work to the minimal extent necessary in accordance with the Contract Documents or to make its several parts fit together properly, and fit it to receive or be received by work of other Contractors. Any cutting, patching or excavation by the Contractor shall be supervised and performed in a workmanlike manner that will not endanger persons nor damage or endanger the Work or any fully or partially completed construction of any other Prime Contractor. The Contractor making the cut shall be responsible for restoration of work or any adjacent repairs. Any cost incurred by another Prime Contractor or the Department due to non-conforming or improperly sequenced work shall be borne by the Prime Contractor responsible therefore. Any damages to the new or existing facility shall be borne by the Contractor responsible for the damage.

6.27 **CUTTING AND PATCHING OF ROOF SYSTEMS.** Unless otherwise specified, each Contractor is responsible for its own cutting and patching of existing roof systems necessitated by its Work. The cutting and patching must be performed by a qualified Contractor/Subcontractor. The cutting and patching must maintain any current warranty or bond on the roofing, and, whether under warranty or not, must be done in accordance with the manufacturer's written directions.

6.28 **CLEANING THE PROJECT.**

- A. Each Prime Contractor shall keep the building and grounds maintained free from accumulations of waste materials, rubbish and debris.
- B. The Contractor shall maintain a clean and safe passageway for the Department, the Professional and others utilizing the facility.
  1. Each Contractor shall insure that their Work shall not damage streets connecting to the Project, which shall be protected from mud, sand, and stones/gravel. Streets and adjacent property sites shall be kept free from run-off, litter, and/or debris in any form from the project site. Mud, litter, and/or debris from the construction site that appears on adjacent property sites shall be removed immediately. All mud collected on vehicle tires shall be removed by each Contractor before leaving the construction area. If any mud or debris from the project site collects on the streets, it shall be removed immediately by the

- responsible Contractor to prevent any hazards to vehicular or pedestrian traffic, as well as from entering the storm sewer system. All streets and property sites adjacent to the project site shall be cleaned of construction related debris, dust, litter, and mud daily.
2. Each Contractor is prohibited from discharging any waste products from concrete trucks or from concrete coring work, or any other unsuitable materials, fluids or other products on the site, or into the storm sewer system.
  3. If the responsible Prime Contractor fails to comply with these requirements, the Department reserves the right, with twenty-four (24) hours prior notice to the responsible Prime Contractor, to assign another Contractor to clean and/or remove mud, trash, litter, debris, or any unauthorized discharge from the project and/or the adjacent streets or properties. In such case, the cost of the cleaning and/or removal, or mobilization for cleaning and/or removal shall be deducted by the Department from the responsible Prime Contractor's next Application for Payment.
- C. The Contractor, and subcontractors of any tier, shall be responsible for and include in its bid, the cost for cleanup and removal from the site of its identifiable debris including, but not limited to, bulky debris, packaging containers, unused materials and equipment, and materials unsuitable for disposal by standard commercial procedures (i.e., masonry and concrete materials, crates, combustible items, etc.).
- D. If the Contractor(s) fails to maintain a satisfactory cleanup program, the Department will issue a twenty-four (24) hour notice of deficiency. If the Contractor does not respond to the notice from the Department, then the Department shall arrange for the performance of the cleanup and back charge the Contractor(s) for all costs associated with the cleanup.
- E. All construction salvage materials, not including items specified elsewhere to be returned to the Department, become the property of the Contractor and shall be taken from the premises. On-site storage of materials and equipment, other than for use in this Project, will not be permitted.
- F. No rubbish or debris shall be dropped from a height of more than six feet or thrown out of any window or opening without a chute.
- G. The following, which is not all-inclusive, lists the cleaning levels required by each Contractor as applicable to the scope of Work included in its Contract prior to Final Inspection:
1. Remove labels which are not required as permanent labels;
  2. Clean transparent materials, including mirrors and window/door glass, to a polished condition;
  3. Remove substances which are noticeable as vision-obscuring materials;
  4. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of dust, stains, paint splatters, films and similar noticeable distracting substances. Except as otherwise indicated, avoid disturbance of natural weathering of exterior surfaces. Restore reflective surfaces to original reflective condition;
  5. Clean concrete floors; in non-occupied spaces, broom clean; remove all stains, marks, paint, rust, etc. caused by construction activities.

6. Clean plumbing fixtures to a sanitary condition, free of stains, including those resulting from water exposure; and
  7. Clean mechanical and electrical equipment, ductwork and replace all filters.
- H. Prior to Final Inspection, in addition to the cleaning specified above, the site shall be prepared for occupancy by a thorough cleaning, including removal of all trash, rocks, wood and / or debris as required. Roadways and sidewalks shall be washed and swept clean. These activities shall be coordinated by the Lead Contractor.
- I. Before the acceptance of the Project by the Department at the Final Inspection, all visible finished surfaces and materials shall be thoroughly cleaned and/or retouched by the responsible Contractor at its own cost and shall be left in a clean and unblemished condition to the satisfaction of the Department. Surfaces that are to be finished shall have all plaster, mortar and other surplus materials removed before beginning painting, varnishing and other finishing.
- 6.29 **REPAIR OF DAMAGED WORK.** The Department shall coordinate the repair of all new Work as well as existing Work required remaining, but which becomes damaged during the course of the Work. This repair work shall include, but not be limited to, restoration of surfaces to the original condition, grading, landscaping or seeding, pavement markings and refinishing.
- 6.30 **CHASES AND OPENINGS.** The General Contractor (.1) or, if no General Contractor, the Contractor indicated in the Contract Documents will construct or have built into new walls, new partitions and new floors, all such chases and openings as are required for the Project. Each Prime Contractor will be responsible to confirm that the chases and openings affecting its Work are installed in accordance with the drawings submitted to the General Contractor.
- 6.31 **CHASES AND OPENINGS AFTER CONSTRUCTION OF WALLS.** If cutting of chases and openings is required after construction of walls, partitions or floors is completed, the Department may require the Work to be performed in such a manner as to result in unmarred Work, even to the extent of requiring the removal and rebuilding of walls and partitions, all of which shall be at the sole cost of the responsible Contractor.
- 6.32 **TESTS.** If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to be inspected, tested or approved, the Contractor shall give the Department timely notice of its readiness and of the date arranged, so the Department may observe such inspection, testing or approval. The Contractor shall be responsible for scheduling such inspections, tests and approvals and shall bear all costs of such inspections, tests and approvals, unless otherwise provided.
- A. All expenses incurred in the collection, packing and delivering of samples or materials or equipment to the Project site shall be paid for by the Contractor.
  - B. The Contractor shall pay the costs of transporting samples from the Project site to the laboratory and for the testing of same, except where otherwise noted in the General Conditions, specifications, or called for in the Contract drawings.
  - C. Approved samples to be incorporated in the building shall be returned to the Project site by the testing laboratory under the supervision of the Contractor.
  - D. The Contractor shall bear all costs of such inspections, tests and approvals, including such assistance, labor, electricity, fuels, storage, apparatus and instruments as are normally required for examining, measuring and testing any materials or Work and

shall supply samples of materials, before incorporation in the Work, for testing as may be selected and required by the Department or the Professional.

- E. Prior to testing, inspection or verification, the Department may require sign-off by the Contractor's representative affirming that the item of Work or installation is complete and ready for such testing, inspection or verification.
- F. Work requiring testing, inspection or verification of probable compliance of Work shall not proceed to be concealed, covered or closed up until approval is given by the Department. Examples of work to be reviewed before being concealed include but are not limited to: sub-grades prior to backfilling, verification of rebar and formwork prior to placing concrete, and installed Work in concealed spaces before the space is closed.
- G. The non-productive downtime or delay in an operation required to provide the reasonable opportunity for testing or verification by the Department constitutes a portion of the Contract Work and is included in the Contractor's contract price. No claim for additional compensation will be allowed related to establishment and timely observation of testing or verification of Work.
- H. Testing or verification by the Department shall in no way relieve the Contractor of its obligation to meet all the requirements of the Contract Documents.
- I. Contractor is responsible for all Quality Control testing as specified in the Contract Documents.

6.33 **SPECIAL TESTING.** If, after the commencement of the Work, the Department determines that any work requires special inspection, testing or approval not included in the Tests Paragraph of these General Conditions, the Department will direct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as in the Tests Paragraph of these General Conditions.

- A. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, or with respect to the performance of the Work, with laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including the Professional's additional services made necessary by such failure.
- B. If the work is in compliance, the Department shall bear such costs and an appropriate change order shall be issued to the Contractor.

6.34 **CERTIFICATES OF INSPECTION.** The Contractor is responsible to secure any required certificates of inspection, testing or approval. Such required certificates of inspection, testing and approval include those required by the UCC. The Contractor shall deliver such certificates to the Professional and the Department within seven (7) days after the Contractor secures the certificate.

6.35 **OBSERVATION OF TESTING.** The Professional and, where required by the Uniform Construction Code, Labor and Industry, shall observe the inspections, tests or approvals required by the Tests and Special Testing Paragraphs of these General Conditions, and it shall be the Contractor's responsibility to serve sufficient notice to the Professional and where required by the UCC, to Labor and Industry, of such inspections, tests or approvals to enable the timely inspection of the Work without impacting the project schedule.

- A. **UCC REQUIRED TESTING OBSERVATION AND/OR INSPECTION.** When the UCC requires any special testing to be observed, inspected and approved by the Department of Labor and Industry, each respective Prime Contractor shall be responsible to contact Labor and Industry sufficiently in advance to allow Labor and Industry to schedule such observation, inspection and approval of such testing. Each Prime Contractor is responsible for determining whether the UCC requires the Department of Labor and Industry's approval of the testing. The Work shall remain accessible and exposed for inspection by Labor and Industry.
- 6.36 **EFFECT OF TESTS.** Neither the observations of the Professional nor inspections, tests or approvals by persons other than the Contractor relieve the Contractor from its obligations to perform the work in accordance with the Contract Documents.
- 6.37 **ENVIRONMENTAL QUALITY CONTROL.** The Contractor and its Subcontractors shall perform their work in a manner which minimizes the possibility of air, water, land and noise pollution.
- A. Each Contractor shall be responsible for all dewatering to prevent surface water and ground water from entering excavations (including foundations and drilled piers), from ponding on prepared subgrades and from flooding the Project site and surrounding areas.
- B. Each Contractor shall be responsible to protect subgrades from softening, undermining, washout, and damage by rain or water accumulation. Each Contractor shall reroute surface water runoff away from excavated areas. No Contractor shall allow water to accumulate in excavations. No Contractor shall use excavated trenches as temporary drainage ditches.
- C. Each Contractor shall be responsible for installing a dewatering system to keep subgrades dry and convey ground water away from excavations. Each Contractor shall maintain the dewatering system until dewatering is no longer required.
- 6.38 **SOLID WASTE.** Storage, collection, transportation and final disposal of solid waste shall be in accordance with the Solid Waste Management Act regulations and standards of the Department of Environmental Protection (DEP). Immediately upon the effective date of the contract, the Contractor shall begin to obtain, at its cost, the necessary permit(s) from DEP and conduct waste disposal on site approved under this permit. A copy of this permit must be submitted to the Department before commencing waste disposal. A record of receipt of the waste material that is signed by the waste company certified to receive the waste material acknowledging receipt and proper disposal must be provided to the Department.
- 6.39 **COMPLIANCE WITH STATUTES & REGULATIONS ADMINISTERED BY DEP.** The Contractor shall comply with all statutes and regulations of the Commonwealth of Pennsylvania concerning environmental quality control administered by DEP. These statutes and regulations include those listed in the Environmental Statement set forth in the Instructions to Bidders (which is included as part of the Contract Documents ) and, but not limited to, the Clean Streams Law, the Clean Water Act, Pennsylvania Sewage Facilities Act, Air Pollution Control Act, Surface Mining Conservation and Reclamation Act, Bituminous Coal Open Pit Mining Conservation Act, Dams and Encroachments Act, Water Well Driller's Act, Water Works Act and Atomic Energy Act, all as amended to date. The Contractor is responsible for any violations and shall secure all required permits. Erosion control measures are shown on drawings and specifications and/or specified in the General Requirements. An erosion control permit, if required, will be obtained by the Professional.

- 6.40 **BURNING OF MATERIALS.** Burning of materials from clearing and grubbing operations, periodic and final clean-up, and all related construction, shall be governed by local codes and ordinances and/or DEP regulations. For each day that the Contractor may contemplate open burning, it shall secure approval from DEP. Failure to secure permission for open burning will require the Contractor to remove material from the project site and dispose of it in a manner acceptable to DEP.
- 6.41 **SUSPENSION FROM METAL ROOF DECKS – NEW AND EXISTING.** Ductwork, conduit, ceiling systems, lighting fixtures or any other miscellaneous equipment shall not be suspended from metal roof decks. These components shall only be suspended from the structural members or a suspension system supported by the structural members. All concentrated loads must be submitted for review by the Professional. If the concentrated loads are not approved, the Prime Contractor furnishing the equipment must provide an acceptable means of distributing the load.
- 6.42 **ASPHALT OR TAR KETTLES.** Asphalt or tar kettles shall not be used inside of or on the roof of any building. Fired kettles shall not be left unattended. There shall be at least one portable fire extinguisher with a minimum 20 B: C rating within thirty feet of each fired kettle and one additional portable fire extinguisher with the same rating by the work area.
- 6.43 **INSULATION.** All insulation incorporated into the project **must** contain the minimum percentage of post-consumer recovered paper or recovered material as shown below for the applicable product:

<b><u>MATERIAL TYPE</u></b>	<b><u>PERCENT BY WEIGHT</u></b>
Cellulose loose – fill and spray on	75% post-consumer recovered paper
Perlite Composite Board	23% post-consumer recovered paper
Plastic rigid foam, polyisocyanurate/polyurethane	
Rigid Foam	9% recovered material
Foam-in-Place	5% recovered material
Glass Rigid Foam	6% recovered material
Phenolic Rigid Foam	5% recovered material
Rock Wool	50% recovered material

- 6.44 **ENFORCEMENT OF INSULATION REQUIREMENT.** The Contractor may be required to provide the Commonwealth with documentary evidence that the insulation provided for the Project was produced with the required minimum percentage of post-consumer recovered paper or recovered material.
- 6.45 **LANDSCAPING PRODUCTS RECYCLED CONTENT.**

- A. **REQUIREMENT:** All landscaping products offered by the Contractor or included in the final product and sold to the Commonwealth **MUST** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

<b><u>LANDSCAPING PRODUCTS</u></b>	<b><u>RECOVERED MATERIAL CONTENT</u></b>
Hydraulic Mulch: Paper Wood/Paper	100% (post-consumer) 100% (total)

Compost Made From Yard Trimmings and/or Food Waste	Purchase or use compost made from yard trimmings, leaves, grass clippings and/or food wastes for applications such as landscaping, seeding of grass or other plants, as nutritious mulch under trees and shrubs, and in soil erosion control and soil reclamation. The Department further recommends implementing a composting system for these materials when agencies have an adequate volume and sufficient space.
Garden Hose: Rubber and/or Plastic	60% (post-consumer)
SOAKER HOSE Rubber and/or Plastic	60% (post-consumer)
Lawn and Garden Edging: Rubber and/or Plastic	30% (post-consumer)/30-100% total
<b>LANDSCAPING PRODUCTS</b>	<b>RECOVERED MATERIAL CONTENT</b>
Landscaping Timber and Posts: HDPE Mixed Plastics/Sawdust HDPE/Fiberglass Other Mixed Resins	25% (post-consumer)+50% (recovered) 50% (post-consumer)+50% (recovered) 75% (post-consumer)+20% (recovered) 50% (post-consumer)+45% (recovered)

- B. POST-CONSUMER MATERIAL: Any product generated by a business or consumer that has served its intended end use, and that has been separated or diverted from solid waste for the purposes of collection, recycling and disposition.
- C. RECOVERED MATERIAL: Refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
- D. CONTRACTOR'S CERTIFICATION: Contractor certifies that the landscaping product(s) which the Contractor is offering contains the required minimum percentage of post-consumer and recovered material content as shown in the above chart for the product.
- E. MANUFACTURER'S CERTIFICATION: In addition to the Contractor's Certification, a Manufacturer's Certification must be completed and signed by the manufacturer before payment will be made to the Contractor for the delivered items. A Manufacturer's Certification form identical to the form shown below must be used. Contractors are not required to submit the completed and signed Manufacturer's Certification form with their bid or proposal. **The Commonwealth shall have no obligation to pay for the item(s) until a properly completed and signed manufacturer's certification is submitted for the delivered item.**
- F. ENFORCEMENT: The Contractor may be required, after delivery of the landscaping product(s), to provide the Commonwealth with documentary evidence that the landscaping product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

**MANUFACTURER CERTIFICATION**

(To be submitted with invoice for each order)

**TO BE COMPLETED BY MANUFACTURER:**

NAME OF MANUFACTURER: \_\_\_\_\_

ADDRESS OF MANUFACTURER: \_\_\_\_\_

FEDERAL EMPLOYER I.D. NO.: \_\_\_\_\_

CONTRACT OR REQUISITION NO. \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

ADDRESS OF CONTRACTOR: \_\_\_\_\_

Type of landscaping product(s) which the manufacturer furnished to the contractor: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CERTIFICATION:** I, the undersigned officer of the above-named manufacturer, do hereby certify that I am authorized to provide this certification on behalf of the above-named manufacturer and that the type of construction product(s) listed above which my company furnished to the contractor named above for the referenced contract or purchase requisition, contained not less than \_\_\_\_\_% post-consumer materials and \_\_\_\_\_% recovered materials as those terms are defined in the invitation for bids. I understand that this document is subject to the provisions of the Unsworn Falsification of Authorities Act (18 Pa C.S. § 4904).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Signatory

\_\_\_\_\_

TITLE

DATE



6.46 **CONSTRUCTION PRODUCTS RECYCLED CONTENT.**

- A. **REQUIREMENT:** All construction products offered by the Contractor or included in the final product offered by the Contractor and sold to the Commonwealth **must** contain the minimum percentage of postconsumer and recovered material content as shown in the chart below for the applicable products.
- B. **POST-CONSUMER MATERIAL:** Material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material.
- C. **RECOVERED MATERIAL:** Refers to waste materials and by-products which have been recovered or diverted from solid waste but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
- D. **CONTRACTOR'S CERTIFICATION:** Contractor certifies that the construction product(s), which the Contractor is offering, contains the required minimum percentage of postconsumer and recovered material content as shown above for the product.
- E. **MANUFACTURER'S CERTIFICATION:** In addition to the Contractor's Certification, a Manufacturer's Certification must be completed and signed by the manufacturer before payment will be made to the Contractor for the delivered items. A Manufacturer's Certification form identical to the form shown below must be used. The Contractor is not required to submit the completed and signed Manufacturer Certification form with their proposal. **The Commonwealth shall have no obligation to pay for the item(s) until a properly completed and signed manufacturer's certification is submitted for the delivered item.**
- F. **ENFORCEMENT:** The Contractor may be required, after delivery of the construction product(s), to provide the Commonwealth with documentary evidence that the construction product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

Construction Products	MATERIAL	% of Post-Consumer Materials	% of Total Recovered Materials
Structural Fiberboard	Recovered Materials	-	80
Laminated Paperboard	Post-consumer Paper	100	-
Rock Wool Insulation	Slag	-	75
Fiberglass Insulation	Glass Cullet	-	20
Cellulose Insulation (loose-fill and spray-on)	Post-consumer Paper	75	-
Perlite Composite Board Insulation	Post-consumer Paper	23	-
Plastic Rigid Foam, Polyisocyanurate/ Polyurethane: Rigid Foam Insulation	Recovered Material	-	9
Foam-in-Place Insulation	Recovered Material	-	5
Glass Fiber Reinforced Insulation	Recovered Material	-	6
Phenolic Rigid Foam Insulation	Recovered Material	-	5
Floor Tiles (heavy duty/commercial use)	Rubber Plastic	90 -	- 90
Patio Blocks	Rubber or Rubber Blends Plastic or Plastic Blends	90 -	- 90

Polyester Carpet Fiber Face	Polyethylene terephthalate (PET) resin	25	-
Latex Paint: --Consolidated <sup>1</sup> --Reprocessed <sup>2</sup> -----White, Off-White, Pastel Colors -----Grey, Brown, Earthtones, and Other Dark Colors	Recovered Material  Recovered Material Recovered Material	100  20 50	-  - -
Shower and Restroom Dividers/Partitions:	Plastic Steel <sup>4</sup>	20 16 67	- 9 33
Carpet Cushion: --Bonded Polyurethane --Jute --Synthetic Fibers --Rubber	Old Carpet Cushion Burlap Carpet Fabrication Scrap Tire Rubber	15 40 - 60	- - 100 -
Railroad Grade Crossing Surfaces --Concrete --Rubber <sup>3</sup> --Steel <sup>4</sup>	Coal Fly Ash Tire Rubber Steel	- - 16 67	15 85 9 33

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<sup>1</sup> Consolidated latex paint used for covering graffiti, where color and consistency of performance are not primary concerns.

<sup>2</sup> Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceiling, and trim; gutterboards; and concrete, stucco, masonry, wood, and metal surfaces.

<sup>3</sup> The recommended recovered materials content for rubber railroad grade crossing surfaces are based on the weight of the raw materials, exclusive of any additives such as binders or additives.

<sup>4</sup> The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

**MANUFACTURER CERTIFICATION**

(To be submitted with invoice for each order)

**TO BE COMPLETED BY MANUFACTURER:**

NAME OF MANUFACTURER: \_\_\_\_\_

ADDRESS OF MANUFACTURER: \_\_\_\_\_

FEDERAL EMPLOYER I.D. NO.: \_\_\_\_\_

CONTRACT OR REQUISITION NO. \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

ADDRESS OF CONTRACTOR: \_\_\_\_\_

Type of construction product(s) which the manufacturer furnished to the contractor: \_\_\_\_\_

**CERTIFICATION:** I, the undersigned officer of the above-named manufacturer, do hereby certify that I am authorized to provide this certification on behalf of the above-named manufacturer and that the type of construction product(s) listed above which my company furnished to the contractor named above for the referenced contract or purchase requisition, contained not less than \_\_\_\_\_% post-consumer materials and \_\_\_\_\_% recovered materials as those terms are defined in the invitation for bids. I understand that this document is subject to the provisions of the Unsworn Falsification of Authorities Act (18 Pa C.S. § 4904).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Signatory

\_\_\_\_\_  
TITLE     DATE

- 6.47 **STORAGE ENCLOSURE.** The Contractor shall provide, at its cost, a suitable, substantial and watertight storage enclosure in which it shall store all materials that might be damaged by the weather. A Mobile trailer type is acceptable. The Contractor is responsible for maintaining and removing this enclosure at its cost. All storage enclosures shall be of sufficient size to hold all the Contractor's subject materials on the site at one time and shall have floors raised at least six (6) inches above the ground on heavy joists or sleepers. Storage enclosures shall have sufficient natural ventilation to preclude condensation.
- 6.48 **NO STORAGE IN EXISTING BUILDINGS.** The Contractor shall not store any materials in any existing building or beyond the contract limits as defined by the drawings without prior authorization from the Department.
- 6.49 **OPERATION AND MAINTENANCE INSTRUCTION MANUALS.** The Contractor shall, for its scope of work, carefully compile during the progress of the work indexed operation and maintenance manuals to include methods of care and cleaning of all types of visible surface materials, both interior and exterior, and descriptions of all systems and equipment, methods of operations and all warranties thereof. Descriptions shall give pertinent diagrams, identifying charts, color coding, connections, lubricating instructions, and single line and detailed wiring diagrams, using manufacturers' printed information where possible. Where manufacturers' printed information is not available, the Contractor shall obtain written instructions prepared by subcontractors and sub-subcontractors. The Contractor shall include names, addresses and phone numbers of all subcontractors and sub-subcontractors, and of service firms of each mechanical item, for the Client Entity's use after expiration of the guarantee period. At the time of Final Inspection, the Contractor shall submit a rough draft of the manual through the Submittal Process in writing for approval by the Professional. After approval and before final payment, Contractor shall furnish the corrected and indexed Operation and Maintenance Instruction Manual in PDF electronic format to the Professional to be turned over to the Department for issuance to the Client Entity.
- 6.50 **RECORD DRAWINGS.** At the time of Final Inspection, the Contractor shall use the Submittal Process to submit to the Professional a complete set of contract color prints in PDF format, corrected with suitable markings to show all changes or variations from the original contract, including all items uncovered during the work and showing the details of the work as actually built, including but not limited to horizontal and vertical dimensional references of all concealed pipe, conduit and other lines and equipment.
- 6.51 **WARRANTY AND GUARANTEE.** In addition to the Contract Bond, the Contractor shall unconditionally warrant and guarantees equipment, materials and workmanship against patent or latent defects arising from faulty equipment, faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the date of Final Inspection of the Work or beneficial occupancy (whichever occurs first) unless other warranties found within the Contract Documents specify or indicate longer periods. The Contractor shall replace such defective equipment, materials or workmanship without cost to the Department. The Contractor shall warrant that such equipment, material or workmanship furnished under this Contractor shall be furnished in conformance with the Contract Documents. All work not conforming to these standards may be considered non-conforming.
- A. If items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. The Contractor shall replace such defective equipment or materials, without cost to the Department, within the manufacturer's

warranty period. Nothing in this paragraph relieves the Contractor or surety of its obligations under the performance bond.

- B. The Contractor shall assign and deliver to the Professional through the Submittal Process all warranties for review as part of the Operations & Maintenance submission. The Professional will transfer the warranties to the Department. The warranty provided in this Paragraph shall be in addition to, and not in limitation of, any other warranty or remedy provided by Law or by the Contract Documents.
- C. If there is a substitution of material or equipment in accordance with the Substitution Paragraph, the Contractor warrants that such installation, construction, material or equipment will perform to the standard of the item originally specified. The Contractor explicitly warrants the merchantability, and the fitness for use and quality of all substituted items provided for or by it.
- D. The Department may bring an action for latent defects that were hidden or not readily apparent to the Department at the time of beneficial occupancy or final acceptance, whichever occurred first, in accordance with applicable law and/or the Contract Bond.

This paragraph, "Warranty and Guarantee," in no way limits the applicability of the Contract Bond.

6.52 **TAXES.** The Contractor shall take full advantage of the Department of Revenue's "Pennsylvania Exemption Certificate" (REV-1220, as amended) for all "Building Machinery and Equipment" as defined and administered by the Department of Revenue, installed under the Contract. Otherwise, the Contractor shall pay all sales, consumer, use and other similar taxes required by law and have an affirmative duty to seek a refund or reimbursement of sales tax from Department of Revenue for costs that were included in the Contract. Once those savings are received by the Contractor, they shall be transferred back to the Department through a credit change order(s). Additional information is available on the Department of Revenue's web site. Credit changes orders for such tax refunds or reimbursements shall be equal to the actual tax refund or reimbursement amount(s) less ten percent (10%) for administrative costs.

6.53 **OFFSET OF AMOUNTS DUE TO COMMONWEALTH.** The Contractor, by execution of the Contract, certifies that it has no outstanding tax liability to Pennsylvania; authorizes the Department of Revenue to release information related to its tax liability to the Department; and authorizes the Commonwealth to offset the amount of any state tax or Contractor liability owed to the Commonwealth by the Contractor or its affiliates and subsidiaries, as well as any other amount due to the Commonwealth from the Contractor not being contested on appeal by the Contractor, against any payments due the Contractor under this or any other contract with the Commonwealth. The certification of no outstanding tax liability is a material representation of fact, which the Department relies upon in entering into the Contract. If it is later determined that the Contractor knowingly rendered an erroneous certification, the Department may find the Contractor in default and terminate the Contract. Such erroneous certification may also be grounds for initiation of civil, criminal and/or debarment proceedings.

6.54 **NONDISCRIMINATION AND SEXUAL HARASSMENT.** During the term of the Contract, the Contractor agrees as follows:

- A. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual

orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

- B. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- C. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- D. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- E. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- F. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- G. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

- H. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

6.55 **CONTRACTOR EVALUATIONS**

- A. The Contractor, by entering the Construction Contract, consents to the evaluation of its performance by the Department and/or the Department's designee and understands that any such evaluation may be used in future procurements to determine Contractor's responsibility. The Department and/or the Department's designee shall provide the Contractor with notice of any unsatisfactory evaluations and the reasons therefore. Contractor shall be entitled to submit a reply.

6.56 **BACKGROUND CHECKS**

- A. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf> . The background check must be conducted prior to initial access and on an annual basis thereafter.
- B. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the commonwealth consents to the access, in writing, prior to the access. The commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.
- C. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.
- D. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in [Enclosure 3 of Commonwealth Management Directive 625.10 \(Amended\) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings](#). The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

**ARTICLE 7: SUBCONTRACTORS/SUPPLIERS**

- 7.1 **CONTRACTOR'S INTEREST IN SUBCONTRACTOR/SUPPLIER.** Pursuant to the Contractor Integrity Provisions set forth in the Instructions to Bidders, a Contractor may not, except with the consent of the Commonwealth, have a financial interest in any other Contractor, Subcontractor, or Supplier providing services, labor, or material on this project. The Contractor is required to disclose the names of all Subcontractors and/or Suppliers in which the Contractor has a financial interest and which will be utilized in the Project. This information must be disclosed either with the bid (if known prior to bid opening) or when your subcontractor and/or supplier subcontracts are submitted. If the Department has any objection to the Subcontractors and/or Suppliers provided, the Contractor shall promptly propose another Subcontractor and/or Supplier to whom the Department does not have an objection. The Department's acceptance of the Subcontractors and/or Suppliers will be deemed to be consent for the purposes of the Contractor Integrity Provisions. Failure to disclose the names of such Subcontractors and/or Suppliers for which the Contractor has a financial interest is a violation of the Contractor Integrity Provisions. For violations of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise. The Contractor shall not replace any Subcontractor and/or Supplier previously selected and/or approved by the Department, without prior notification to the Department and receipt of the Department's approval for such substitution.
- 7.2 **SUBCONTRACTOR/SUPPLIER RESPONSIBILITY.** If the Contractor enters into any subcontracts or purchase orders under this Contract with Subcontractors or Suppliers currently suspended or debarred by the Commonwealth, or who become suspended or debarred by the Commonwealth during the term of this Contract or any extensions or renewals of it, the Department may require the Contractor to terminate such Contract.
- 7.3 **CONTRACTOR RESPONSIBILITY FOR ACTIONS AND COMPLIANCE.** The Contractor shall be responsible for all acts of its Subcontractors and Suppliers utilized under this Contract, and for their compliance with all terms and provisions of the Contract applicable to their performance. The Contractor shall continuously coordinate the Work of all Subcontractors to assure proper processing and progress of the Work.
- A. The Contractor shall require each Subcontractor to comply with the following:
1. Examine the shop drawings and the Work of other Prime Contractors and all sections of the specifications to the extent necessary for satisfactory installation of its Work, and connection between its Work and the Work of other Prime Contractors; and
  2. Coordinate its Work accordingly; and
  3. Cooperate with other Contractors and Subcontractors toward timely and satisfactory completion of the Project.
- B. The failure of any Subcontractor to complete its portion of the Work in a satisfactory manner within the proper time will not relieve the Contractor of responsibility for the proper and satisfactory execution and completion of the entire Work.
- 7.4 **ACTS AND OMISSIONS OF SUBCONTRACTORS.** The Contractor acknowledges its full responsibility to the Department for the actions, inactions, and omissions of its Subcontractors, and of the persons and firms either directly or indirectly employed by



them, equally to the extent that the Contractor is responsible for the actions, inactions, and omissions of persons and firms directly or indirectly employed by it. The Contractor acknowledges that it remains fully responsible for the proper performance of its Contract whether work is performed by the Contractor's own forces or by Subcontractors engaged by the Contractor.

7.5 **SUBCONTRACTS AND PURCHASE ORDERS.**

A. **SUBCONTRACTORS:**

1. All Work performed for the Contractor by a Subcontractor shall be done pursuant to a written subcontract between the Contractor and the Subcontractor.
2. The form of the written subcontract must be the same for all Subcontractors.
3. All subcontracts between the Contractor and each Subcontractor **must:**
  - a. Be signed by both parties;
  - b. Contain Provisions that:
    - i. Set forth the amount the Subcontractor is to be paid; and
    - ii. Describe the scope of Work to be performed by the Subcontractor; and
    - iii. Preserve and protect the rights of the Department and the Professional under the Contract with respect to the Work to be performed under the Subcontract, so that the subcontracting thereof will not prejudice such rights; and
    - iv. Require that such Work be performed in accordance with the requirements of the Contract Documents; and
    - v. Require submission to the Contractor of applications for payment under each Subcontract to which the Contractor is party, in reasonable time to enable the Contractor to apply for payment in accordance with the provisions of the Prompt Payment Schedule (62 Pa. C. S. §3931-§3939) and the provisions of these General Conditions governing payment by the Department; and
    - vi. Require that all claims for additional costs, extensions of time or otherwise with respect to subcontracted portions of the Work shall be submitted to the Contractor in the manner provided in the Contract Documents for like claims by the Contractor upon the Department; and
    - vii. Prior to commencing onsite or offsite work, require each Subcontractor to comply with the provisions of the Public Works Employment Verification Act (43 P.S. §§ 167.1 – 167.11), which requires subcontractors to utilize the Federal E-Verify program to verify the employment eligibility for every new employee hired after January 1, 2013 and to submit to the Department, using the Subcontractor Information Form, a Commonwealth Public Works Verification Form available on the Department of General Service's web site at [www.dgs.state.pa.gov](http://www.dgs.state.pa.gov).
    - viii. Require each Subcontractor to include provisions in each of its subcontracts regarding the applicability of the Public Works Employment Verification Act (43 P.S. §§ 167.1 – 167.11), information regarding the use of the Federal E-Verify program, and reference to

the Department's web site to obtain a downloadable copy of the Commonwealth Public Works Employment Verification Form required to be submitted to the Department by the Prime Contractor using the Subcontractor Information Form.

ix. Require acknowledgement by the Subcontractor that the Subcontractor is without privity of Contract with the Department and that the Subcontractor agrees by signing the Subcontract that it neither acquires or intends to acquire any rights against the Department on a third party beneficiary theory or any other theory; and

x. Require each Subcontractor to notify its Subcontractors, in writing, that their rights of recovery against the bond of the Contractor for failure of payment may not be exercised unless the Contractor is notified of the claim within ninety (90) days from the last performance of labor or provision of materials and/or equipment; and

xi. Obligate each Subcontractor to specifically consent to all provisions of this Article of the General Conditions of the Contract; and

xii. Contain the following certification language:

1. **Certification:** I, the undersigned officer of the Prime Contractor, do certify that, to the best of my knowledge, this subcontract complies with the provisions of the Subcontractor Article of the General Conditions of the Contract with the Department of Military and Veterans Affairs. I understand that by signing this document I certify that this document is subject to the provisions of the Unsworn Falsifications to Authorities (18 P.S. §4904). I acknowledge that if my company does not comply with the terms of the Subcontractor Article my firm may be subject to suspension for a period up to three (3) months and/or debarment from bidding on any Commonwealth of Pennsylvania Public Works Projects for a period of three (3) years.

xiii. The Contractor agrees that failure to incorporate these terms in its Subcontracts is a material breach of the terms of the Contract Documents. The Contractor will have five (5) days, as required by the Administrative Procedures, to provide proof in writing that such a deficiency in its subcontract documents has been remedied. Failure to provide proof within five (5) days shall constitute grounds for default of the Contractor by the Department.

4. The Contractor shall submit a copy of all subcontracts for Work to be performed on the Project to the Department for the Project **prior to the commencement of any Work by the Subcontractor.**
5. The Contractor shall also submit a copy of every subcontract with a Small Diverse Business/Small Business for the Department's Bureau of Diversity, Inclusion and Small Business Opportunities compliance requirements.
6. The Contractor shall identify the work to be subcontracted on a separate line item on the Schedule of Values, as described more completely in the Administrative Procedures.

B. MANUFACTURERS AND SUPPLIERS:

1. Manufacturers and Suppliers do not have to sign Purchase Orders.
2. For every purchase order with a Small Diverse Business/Small Business Supplier and Small Diverse Business/Small Business Manufacturer, the Contractor shall submit a copy of the purchase order for the Department's Bureau of Diversity, Inclusion and Small Business Opportunities compliance requirements. The purchase order for a Nonstocking Supplier must include the fee or commission paid to the Nonstocking Supplier.
3. The Contractor shall identify all material and/or equipment that will be supplied by a Small Diverse Business/Small Business Supplier or a Small Diverse Business/Small Business Manufacturer on a separate line item (per Supplier/Manufacturer, not per material and/or equipment) on the Schedule of Values.

7.6 **NO CONTRACTUAL RELATIONSHIP BETWEEN DEPARTMENT AND SUBCONTRACTOR.** Nothing contained in the Contract Documents creates any contractual relationship between the Department and any Subcontractor, Sub-Subcontractor or any of its authorized representatives. Nothing contained in the Contract Documents creates any contractual relation between the Professional and any Subcontractor, Sub-Subcontractor or any of its authorized representatives. Nothing contained in the Contract Documents creates any contractual relation between the Construction Manager (if there is one on the Project) and any Subcontractor, Sub-Subcontractor or any of its authorized representatives. The Contractor is not an intended third party beneficiary of the Professional Agreement or the Construction Manager's Contract. Nothing in the Contract Documents between the Department and the Contractor should be construed to authorize any person not a party to the Standard Construction Contract, the Professional Agreement or Construction Manager's Contract to maintain any lawsuit involving that contract, unless otherwise provided by law.

7.7 **NO CONTRACTUAL RELATIONSHIP BETWEEN DEPARTMENT AND SUPPLIER OR MANUFACTURER.** Nothing contained in the Contract Documents creates any contractual relationship between the Department and any Supplier/Manufacturer or its authorized representatives. Nothing contained in the Contract Documents creates any contractual relation between the Professional and any supplier/manufacturer or its authorized representatives. Nothing contained in the Contract Documents creates any contractual relation between the Construction Manager (if there is one on the Project) and any supplier/manufacturer. The supplier/manufacturer is not an intended third party beneficiary of the Professional Agreement or the Construction Manager's Contract. Nothing in the Contract Documents between the Department and the Contractor should be construed to authorize any person not a party to the Standard Construction Contract, the Professional Agreement or Construction Manager's Contract to maintain any lawsuit involving that contract, unless otherwise provided by law.

7.8 **PAYMENT OF SUBCONTRACTOR BY CONTRACTOR GOVERNED BY PROMPT PAYMENT SCHEDULE.** Payments to the Subcontractor are subject to the provisions of the Commonwealth Procurement Code (62 Pa. C. S. §3931 *et seq.*) also known as the "Prompt Payment Schedule". The general description set forth in the General Conditions does not relieve the Contractor from strict compliance with the requirements of the Prompt Payment Schedule. Nothing described in these General Conditions is intended to impose a duty greater than that imposed by the Prompt Payment Schedule. In the event of any discrepancy between this language and the language of the Schedule, the Schedule controls.

7.9 **FAILURE OF DEPARTMENT TO MAKE PROGRESS PAYMENT.** If the Department fails to pay some or all of an approved Invoice for any cause which is the fault of the Contractor and not the fault of a particular Subcontractor, the Contractor shall pay that Subcontractor,

upon demand made by the Subcontractor at any time after the approved Invoice should otherwise have been issued, for its Work to the extent completed, less the retained percentage.

- 7.10 **INSURANCE RECEIPTS.** The Contractor shall pay each Subcontractor a just share of any insurance moneys received by the Contractor under the Insurance Article of these General Conditions of the Contract.
- 7.11 **PERCENTAGE OF COMPLETION.** The Department may, on request, furnish to any Subcontractor, if practicable, information regarding percentages of completion certified to the Contractor due to work done by such Subcontractor.
- 7.12 **NO OBLIGATION ON PART OF DEPARTMENT TO PAY SUBCONTRACTOR, SUPPLIER, OR MANUFACTURER.** Subcontractor, Supplier, or Manufacturer issues concerning delayed and non-payment should be addressed to the Contractor and the Contractor's payment bond surety. The Department shall have no obligation to pay or to ensure the payment of any moneys to any Subcontractor, Supplier, or Manufacturer except as may otherwise be required by law. Subcontractors, Suppliers, and Manufacturer acknowledge they have no direct cause of action (unless otherwise provided by law) against the Professional, the Construction Manager (if there is one on the Project) or the Department relating to any payment issues.
- 7.13 **SUBCONTRACTOR AND SUPPLIER CLAIMS.** The Contractor agrees to require the Subcontractor and/or Supplier to submit all claims for extras, extensions of time or for damages to the Contractor in the manner provided in the Contract Documents for claims by the Contractor against the Department in accordance with the Disputes Article of these General Conditions. Since neither Subcontractors nor Suppliers have privity of contract with the Department, they may not pursue a claim directly against the Department.

## **ARTICLE 8: PROJECT SCHEDULE**

- 8.1 **DEPARTMENT RESERVATION OF RIGHTS.** The Department reserves the right to accept the Project Schedule developed, signed and submitted by the Contractors, while preserving exceptions to any defects in the means, methods, sequences, durations and/or logic which the Department believes exist in the schedule. The acceptance of the updated Project Schedule by the Department in no way relieves the Prime Contractors from their duty to coordinate amongst themselves and shall not make the Department, its designee or the Professional a guarantor of the Project Schedule.

Upon request, the Lead Contractor shall provide to the Department, in hardcopy and electronic format (format to be determined by the Department), all the planning data used to develop the Project Schedule. This planning data shall include, but is not limited to:

1. Job Sequences;
2. Activity Logic;
3. Man loading;
4. Crew sizes;
5. Number of shifts planned per working day;
6. Number of crews per shift; and
7. Equipment loading.

- 8.2 **TIME OF THE ESSENCE.** All time limits stated in the Contract Documents are of the essence. The Contractor shall perform the Work expeditiously with adequate forces using all calendar days to complete the Work no later than the Contract Completion Date.
- 8.3 **IF LETTER OF INTENT ISSUED.** If the Department elects to issue a Letter of Intent pursuant to §906 of the Commonwealth Procurement Code, the Letter will list and describe the Work that can commence prior to the Effective Date of Contract.
- 8.4 **COMMENCEMENT OF OFF-SITE WORK IF LETTER OF INTENT NOT ISSUED.** If the Department does not issue a Letter of Intent, the date of commencement of Off-Site Work is the Effective Date of Contract.
- 8.5 **INITIAL JOB CONFERENCE.** The Initial Job Conference will be held within thirty (30) calendar days from the Effective Date of Contract.
- 8.6 **COMMENCEMENT OF ON-SITE WORK.** On-site work will commence within ten (10) calendar days after the Initial Job Conference.
- 8.7 **PROJECT SCHEDULE PREPARATION.**
- A. **CPM:** Unless directed otherwise by the Department in the specifications, the project management tool commonly called the Critical Path Method (CPM) scheduling system will be used on this Project for planning, scheduling implementation and reporting of all Work to be performed under this Contract, including all activities of Subcontractors, equipment vendors and Suppliers. Unless directed otherwise by the Department, the precedence diagramming method shall be used in preparing the Project Schedule and all related network diagrams. Primavera Project Planner P6 version 8.3 (or more current versions) shall be used by all Prime Contractors to maintain the Project Schedule, unless all Contractors agree upon and request the Department's permission to utilize alternate software. The Project Schedule network plan, including all appropriate milestone dates and the computer-produced reports shall be part of the Contract Documents. The following outline is provided to indicate to all Contractors the scope of the scheduling work and the responsibility of all Contractors to comply with this method. The CPM Schedule shall be developed, prepared, and submitted in accordance with this paragraph and the requirements of the Scheduling Administrative Procedure. **No Contractor shall assert any claim whatsoever for any delay or additional cost incurred in connection with the development of the CPM Schedule.**
  - B. **SCOPE:** The CPM will be used to establish and control the Project Schedule. This system will be implemented by the Lead Contractor using the services of a qualified Subcontractor or the Lead Contractor's own in-house staff.
  - C. **COOPERATION OF CONTRACTORS:** To the extent necessary for the Lead Contractor to reflect the Contractors' proposed plan for completion of its Work in a computerized CPM Project Schedule network diagram, the Contractors shall meet with and assist the Lead Contractor and furnish information as directed in a Letter of Intent or otherwise directed subsequent to award of Contract. All Work shall be done in accordance with accepted CPM planning and scheduling methods and it shall be the responsibility of all Contractors to cooperate fully with the Lead Contractor and with each other to create and update the CPM schedule as required. The Project Schedule, including all updates, will reflect the decisions of all Contractors as to sequences, durations, construction logic, and all means and methods of construction. Each Contractor must provide persons of sufficient skill and information of sufficient detail to enable the Lead Contractor to prepare and update the CPM Schedule. The Contractors shall allocate to home office and field office costs sufficient financial

resources to enable the Contractor to fulfill their responsibilities for coordinating and cooperating in the creation and maintenance of the CPM Schedule.

- D. **DUE DATES:** Each Contractor expressly acknowledges the duty to cooperate fully with these scheduling requirements.
1. If the Department issued a Letter of Intent authorizing the Contractors to commence scheduling activities, the Contractors shall commence scheduling within the scope as instructed in the Letter.
  2. **The Department will only review and pay (if the application is otherwise acceptable) the Contractor's Invoice #1 without an integrated Progress Schedule being submitted and accepted by the Department. If there is no Project Schedule submitted and accepted after Invoice #1, the Department will withhold payments from every Contractor until such time as there is an accepted Project Schedule.**
- E. **PRELIMINARY PROJECT SCHEDULE:** The CPM Project Schedule will be developed by the Lead Contractor in the form of a CPM arrow network or CPM precedence diagram from the information provided by the Contractors.
1. Unless a Letter of Intent was issued directing otherwise, within seven (7) calendar days of the Effective Date of Contract, the Lead Contractor shall furnish each Contractor a draft progress schedule of the proposed prosecution of the Work under that Contractor's Contract.
  2. Within seven (7) calendar days of receipt of the Lead Contractor's draft progress schedule, each separate Contractor shall submit to the Lead Contractor a schedule of the proposed prosecution of its Work, which the Contractor has integrated with the Lead Contractor's Work. The information provided by the Contractors to the Lead Contractor shall include all proposed sequences of operation, time estimates to complete operations, man loading, data from subcontractors, material supplies, and vendors required for the preparation of the Project Schedule. Each Contractor shall cooperate with the Lead Contractor to aid in the preparation of the draft Project Schedule. The Lead Contractor may conduct a meeting with each of the other Contractors to discuss details and inclusion of all of their Work in the draft Project Schedule.
  3. The Lead Contractor shall prepare and submit to the Professional and the Department within thirty (30) calendar days of the Effective Date of Contract, the completely integrated Project Schedule in CPM format, signed by all Contractors, indicating their approval, and showing in detail, to the acceptance of the Department, the proposed coordinated dates for the performance of each part of the Work under each Contract on the Project. The submission of the Project Schedule, and all subsequent updates, shall be done in PDF format and by hard copy (including all requested sorts and arrangements; utilizing color print). The start date on the schedule shall be the Initial Job Conference and end with the Contract Completion Date.
  4. Seasonal weather conditions shall be considered by the Contractors in the planning and scheduling of all Work influenced by high or low ambient temperatures to insure the completion of all Contract Work within the allotted Contract Time and milestone completion dates.
  5. The accepted Project Schedule must meet the specified Project duration as indicated in the Contract.
  6. The accepted Project Schedule shall consider and include all time durations associated with UCC Inspection criteria by the PA Department of Labor and

Industry, along with all other testing and inspections required by contract. It must take into account the advance notice needed for L&I Inspectors as defined by the UCC Building Permit criteria.

F. MILESTONES:

1. The Project Schedule shall identify Construction Progress Milestones for the Project. A Milestone is to signify the start and/or completion date of a specific activity that is significant to completing the Project on schedule. The Lead Contractor is to fully consider the sequence of operations, time estimates and other scheduling influences of all the Contractors when establishing the Milestones. By signing off on the Progress Schedule, the Contractors are also agreeing to the Milestones set forth on the schedule. Any and all milestones that are not completed on schedule will require a Recovery Plan from the Contractors.
2. Selected Milestones shall be taken from activities that are found within the Critical Path of the Project Schedule.
3. **Failure to provide full cooperation in the preparation of the CPM Schedule and any Updated Schedules will be sufficient reason for declaring the Contractor in default.**

G. SCHEDULING INFORMATION: The following information/data for the Project Schedule will be submitted to the Lead Contractor. The information to be supplied by each Prime Contractor to the Lead Contractor shall include, but is not limited to:

1. The Prime Contractor's means and methods of construction; and
2. Job sequences; and
3. Activity durations in calendar days (excluding material deliveries and approval of shop drawings);
  - a. one (1) calendar day shall be the minimum duration.
  - b. thirty (30) calendar days shall be the maximum duration.
4. Construction activities for display of all salient features of the Work of each Contractor, including but not limited to:
  - a. placing of orders for materials; and
  - b. submission of shop drawings for approval; and
  - c. approval of shop drawings; and
  - d. delivery of material; and
  - e. all work activities to be performed by each Contractor; and
  - f. priority submittal schedule.

H. FORMATION OF FINAL PROJECT SCHEDULE: Once the Project Schedule information has been compiled, the Lead Contractor will generate a fully integrated Project Schedule for the Project in draft form. If the completion date indicated on the schedule exceeds the Contract Completion Date or if there appears to be a defect in the construction sequences, duration, or logic, the information used to develop the arrow network diagram or precedence diagram will be reviewed by the Lead Contractor and all other Prime Contractors. After discussion and revisions of the information and data, the Lead Contractor will utilize this revised data to produce a revised fully integrated Project Schedule. The procedure will be repeated as necessary to obtain a final

Project Schedule that meets the Contract Completion Date as set forth in the Contract documents. This final Project Schedule is to be submitted to the Department within 30 days of the Effective Date of the contract or sooner if required by a Letter of Intent. The hard copy of the completed final Project Schedule will show:

1. Activity identification;
2. Activity description;
3. Activity percentage completed;
4. Calendar dates for early start of each activity;
5. Calendar dates for early finish of each activity;
6. Calendar dates for late start of each activity;
7. Calendar dates for late finish of each activity;
8. Individual activity float;
9. Activities critical to completion (i.e., identify all items on the critical path) of the project on schedule;
10. Milestones; and
11. That the Schedule is within the contract completion duration.

All Prime Contractors will approve the Project Schedule and each update to the schedule. The Lead Contractor will upload the approved Project Schedule for access by all other Prime Contractors, the Professional, and the Department's Regional Office for review.

- 8.8 **WORK DURING FORMATION OF PROJECT SCHEDULE.** Until the final Project Schedule is signed by all Prime Contractors and accepted by the Department, each Prime Contractor must proceed with the Work utilizing all the information available to them, including but not limited to coordination meetings with other Prime Contractors, attendance at Job Conferences, two week look ahead activities, weekly superintendent's meetings, draft CPM schedules used in the development of the final Project Schedule, and any other means necessary to maintain work progress until such time as the Project Schedule is complete and accepted. As such, no Contractor shall assert any claim whatsoever for any delay or additional cost incurred with the development of the Project Schedule.
- 8.9 **THE DEPARTMENT SHALL OWN THE FLOAT.** No float shall be used by the Contractor without a request from the Contractor and subsequent directive from the Department. Total float is defined as the amount of time between the early start date and the late start date, or the early finish date and the late finish date, for each and every activity in the Project Schedule. Extensions of time to interim milestone dates or the Contract Completion Date under this Contract will be granted only to the extent that equitable time adjustments to the activity or activities affected by the contract modification or delay exceeds the total float of the affected or subsequent paths and extends any interim milestone date or the Contract Completion Date. Such determination shall be made at the sole discretion of the Department.
- 8.10 **SCHEDULING DISPUTES:** The Lead Contractor and other Prime Contractors are responsible for coordination of the Work. Disputes between the Lead Contractor and one (1) or more other Prime Contractors or disputes between two (2) or more Prime Contractors pertaining to the creation of the Project Schedule, Schedule Updates or any Recovery Schedule, the furnishing of additional resources to meet the project schedule and/or the administration of the construction shall be submitted promptly to the Department for a



decision. The decision of the Department will be observed, accepted, and fully followed by all Prime Contractors and their subcontractors on the Project, subject only to the commencement of a dispute or arbitration proceeding pursuant to Disputes Article of these General Conditions. The progress of the Work, as determined by the decision, shall not be delayed while awaiting the outcome of any such dispute proceeding.

8.11 **MAINTAINING THE PROJECT SCHEDULE.**

- A. Each Prime Contractor shall ensure that such manpower, materials, facilities, and equipment is applied to the Work, and shall work such hours as approved, including night shifts, overtime operations, Sundays, and holidays, as may be necessary, to maintain its progress in accordance with the Project Schedule so that no delays are caused to other Prime Contractors engaged in the Project and to insure the progress and completion of the Work within the time allowed by the Contract and as permitted by the Department.
- B. If any Prime Contractor fails to maintain progress according to the schedule or causes delay to another Prime Contractor, the delaying Prime Contractor shall furnish such additional manpower, equipment, additional shifts or other measures that are necessary, or as the Lead Contractor directs, to bring its operations up to schedule without any additional cost or expense to the Department.
- C. If the Prime Contractor refuses or fails to keep up with the Project Schedule or fails to proceed as directed by the Department, the Department will note this refusal/failure in the Contractor Responsibility Program and will consider suspension of the Contractor in accordance with Section 531 of the Commonwealth Procurement Code. The Department may also, in its sole discretion, find the Prime Contractor in breach of its Contract and/or declare the Contractor in default of its Contract in accordance with the Termination Article of these General Conditions.

8.12 **PROJECT SCHEDULE UPDATING.** The Project Schedule will be updated and issued at least once per month by the Lead Contractor.

- A. **MANDATORY MONTHLY SCHEDULE UPDATE MEETING.** The Lead Contractor will, at least once per month, provide updates of the Project Schedule. All Prime Contractors shall attend a Monthly Schedule Update Meeting. It is mandatory that all Prime Contractors provide their updated information to the Lead Contractor seven (7) calendar days prior to the Monthly Update Meeting. The Department reserves the right to request additional updates, at no cost to the Department, from any Contractor. The Lead Contractor shall provide documentation confirming the Monthly Update Meetings, stating the date, time, and attendance. At sole discretion of the Department, the Lead Contractor shall be required to hold the mandatory monthly schedule update meeting at a suitable location approved by the Department with necessary provisions to accommodate all required attendees of the Prime Contractors, the Department and Professional. All necessary computer hardware and software (to include but not limited to laptop, projector and other necessary peripheral devices, and scheduling software etc.) shall be provided by the Lead Contractor so that the CPM schedule update can be projected for all meeting attendees to view. Lead Contractor shall have the approved scheduler attend the meeting to produce real time updates to the schedule based upon input from meeting attendees. The schedule file utilized during the meeting shall have all schedule update information provided to the Lead Contractor by the other Prime Contracts already incorporated.
- B. At the conclusion of the Monthly Schedule Update Meeting, all information collected will be checked by the Lead Contractor against the current Project Schedule. After all

revisions in logic and time estimates have been noted, the schedule (including all drafts necessary to reach agreement) will be generated, reviewed, and approved by all Prime Contractors to indicate their concurrence. The Updated Project Schedule will be provided by the Lead Contractor within three (3) calendar days after the Monthly Update Meeting for the other Prime Contractors, the Professional, and the Department to view. The submission of Updated Project Schedule to the Department, Professional, and Construction Manager shall be done by hard copy (including all requested sorts and arrangements; utilizing color print), and in electronic format (computer disk or file) used to develop the schedule.

- C. Upon request, the Lead Contractor shall provide to the Department, in hardcopy and electronic format (format to be determined by the Department), its planning data used to develop the updates of the Schedule. This planning data includes, but is not limited to:
  - 1. Job Sequences;
  - 2. Activity Logic;
  - 3. Man loading;
  - 4. Crew sizes;
  - 5. Number of shifts planned per working day;
  - 6. Number of crews per shift; and
  - 7. Equipment loading.
- D. As part of the Job Conference, all activities scheduled to begin in the projected work for the next two weeks will be reviewed in a schedule look-ahead.
- E. The Department reserves the right to reject Invoices or Applications for Payment from those Prime Contractors not complying with this Section.

8.13 **RECOVERY PLAN.**

- A. **EVENTS THAT TRIGGER THE NEED FOR A RECOVERY PLAN:** The Department may issue a Recovery Notice demanding that the Lead Contractor, after coordinating with the other Prime Contractors, submit a Progress Recovery Plan (narrative) upon the occurrence of any of the following events:
  - 1. The progress of the Work or a single activity falls behind the contract time as shown in a currently updated and approved Project Schedule by more than fifteen (15) calendar days; or
  - 2. A missed milestone; or
  - 3. When an updated Project Schedule provides a completion date past the Contract Completion Date; or
  - 4. When a late start or late finish for any activity does not come within the time allowed by the current Project Schedule.
  - 5. When, in the sole opinion of the Department, it appears likely that the Work will not be completed within the Contract Time.
- B. The Prime Contractor(s) responsible for the occurrence will work with the Lead Contractor to prepare a Recovery Plan indicating that all future activities, Project completion and occupancy dates will be met within the Contract Time. The Recovery

Plan shall be developed and received by the Department within three (3) calendar days of receipt of the Recovery Notice. The Recovery Plan shall be implemented immediately unless otherwise directed by the Department.

- C. In order to create and maintain the Recovery Plan, the Prime Contractor(s) agree(s) to undertake, but not be limited to, some or all of the following actions at no additional cost to the Department: increase the manpower, the number of working hours per shift, the number of shifts per day, the number of working days per week, the quantity of equipment, or any combination of the foregoing, and reschedule such activities to bring the project back on schedule.
- D. Failure of any Prime Contractor to comply with these requirements shall be considered grounds for a determination by the Department that the Prime Contractor is failing to prosecute the Work with sufficient diligence to ensure its completion within the Contract Time and is failing to comply with the Contract Time provisions of the Contract. Such determination may result in default and/or suspension and/or debarment of the Contractor.
- E. The Department's acceptance of the Recovery Plan does not relieve the Prime Contractors of the responsibility for the accuracy of the schedule and for the Prime Contractors' obligations to meet the Contract Completion Date. The Department's acceptance of the Recovery Plan does not constitute approval or warranty of the Prime Contractors' means, methods, and techniques of construction. The Department reserves the right to review any Recovery Plan to determine if it satisfies the Project Schedule. If the Recovery Plan does not satisfy the Project Schedule, the Department may elect to prepare a Recovery Plan, to which the Prime Contractors must adhere. The costs incurred by the Department in preparing the Recovery Plan will be assessed against the Prime Contractors on a *pro rata* basis (based upon individual contract price/all contracts awarded on the Project) by credit change order.
- F. If an updated monthly Project schedule provides a completion date past the Contract Completion Date, then a Recovery Plan is required, not an Extension of Time. The Recovery Plan will be attached to the Project Schedule Update.

8.14 **REQUESTS FOR EXTENSIONS OF TIME CHANGE ORDER.** All requests for Extensions of Time shall be submitted to the Department through the change order process in writing as discussed in the Administrative Procedures. Reasons clearly substantiating the request shall be included or the request may be denied. All such requests must be filed within ten (10) calendar days of the end of the event or issue that caused the alleged delay.

8.15 **EFFECT OF GRANT OF EXTENSIONS OF TIME CHANGE ORDER TO OTHER CONTRACTORS.** Activity time delays shall not automatically merit an extension of the Contract Completion Date of this or any other Contract. The granting of an Extension of Time Change Order to one Prime Contractor does not automatically entitle any other Prime Contractor to an Extension of Time Change Order.

8.16 **EXTENSIONS OF TIME CHANGE ORDER AND IMPACT ON SCHEDULE.**

- A. A change order, field order (i.e., a no cost change order) or delay may not affect existing critical activities or cause non-critical activities to become critical. Change orders, field orders or delays may result in the Department giving the Contractor part of or the entire available total float that may exist within an activity chain on the Network, thereby not causing any effect on any interim milestone date or the Contract Completion Date of this Contract. The Project Schedule shall not excuse the performance of the Contractor from activities not indicated on the Project Schedule.

- B. If the Department, for any period after the commencement of On-Site Work, approves an Extension of Time Change Order to any Prime Contractor, the Lead Contractor is required to prepare a revised Project Schedule and provide copies to all Prime Contractors. All Prime Contractors are required to provide the Lead Contractor with information necessary to create the revised Project Schedule within seven (7) calendar days upon notice of approval of an Extension of Time Change Order. If a revised Project Schedule is requested, the Lead Contractor must send the revised Project Schedule, approved by all Prime Contractors, to the Professional and the Department within fourteen (14) calendar days of the approval of the Extension of Time Change Order. If the time limits set out in this Paragraph are not met, or the Prime Contractors are unable to reach agreement on the Project Schedule, the Department reserves the right to prepare the schedule which will be adhered to by all Prime Contractors. All costs incurred by the Department in preparing the schedule will be assessed to the Prime Contractors on a *pro rata* share (based upon individual Contract price/all Contracts awarded on the Project) by credit change order or at the Department's discretion.
- C. Upon approving an Extension of Time Change Order, the monthly updating of the Project Schedule may result in changes in the dates on which activities and the Project itself are expected to be completed. The process of updating the Project Schedule does not constitute Department approval of requests for Extensions of Time and does not replace the process of seeking extensions in accordance with both the applicable provisions of the General Conditions of the Contract and the Administrative Procedures, both of which will be strictly enforced. To substantiate and support any timely filed requests for Extensions of Time Change Order, the Prime Contractor(s) must submit, through the Lead Contractor, CPM Schedules (based upon the current Project Schedule in effect at the time the Extension of Time Change Order is submitted) with and without the asserted delay. The Prime Contractor(s) must also establish that the delay is justifiable in accordance with the Requests for Extensions of Time Change Order paragraph of these General Conditions. Data drawn from the Project Schedule will also be used by the Department in assessing responsibility for liquidated damages if any Prime Contractor causes an unjustified delay.
- D. The Milestones shall be updated and adjusted within ten (10) calendar days of the Department approving any Prime Contractor an Extension of Time Change Order. If a Recovery Plan that was accepted by the Department requires modification of any future Milestone, the Project Schedule and Milestones must be revised accordingly. The Milestones shall be updated and adjusted each time the Project Schedule is revised so that the two instruments remain coordinated.
- E. Adjusting the Project Schedule through the use of a Recovery Plan does not constitute approval by the Department of any request for an Extension of Time Change Order and does not replace the process of seeking extensions of time in accordance with the Extension of Time Change Order paragraph in this Article of these General Conditions and the Administrative Procedures, which provisions will be strictly enforced. If a Prime Contractor submits a timely filed request for an Extension of Time Change Order, that Prime Contractor must also submit, through the Lead Contractor, a proposed Milestone schedule with and without the asserted delay.

8.17 **DELAYS AND EXTENSIONS OF TIME.** If the Contractor is delayed by:

1. A Critical Activity on the current Progress Schedule that is beyond the control or responsibility of the Contractor; or
2. Labor disputes; or

3. Fire; or
4. Unavoidable casualties; or
5. Delay due to suspension of work, as provided in Article 15 of these General Conditions; or
6. Any cause that the Department determines may justify the delay;

then the Contract Time may be extended by the approval of the Department, through an Extension of Time Change Order, for such reasonable time as the Department may determine. The Department will respond to a Contractor's timely request for extension of time Change Order within thirty (30) calendar days of the Department's receipt of such request.

- 8.18 **UNFAVORABLE WEATHER.** Unfavorable weather, including but not limited to rain, snow, and cold or freezing weather, is not an excuse for stopping Work under the Contract. The Prime Contractor shall use such methods of protection as may be necessary to continue the Work throughout the period of unfavorable weather. If, after using such methods of protection, the Prime Contractor cannot continue, a Request for an Extension of Time Change Order may be submitted in writing for the Department's consideration and if approved it will be excusable and non-compensable.
- 8.19 **EXTENSIONS OF TIME NOT AN ADMISSION OF LIABILITY FOR DELAY.** The approval of an Extension of Time only constitutes a release by the Department of the Department's ability to assess liquidated damages against the Contractor for the number of days granted by the Extension of Time. The Department's approval of an Extension of Time **shall not** be construed or interpreted by any Contractor as an admission that the Department is liable for delay damages. The Contractor agrees that the Department's grant of an Extension of Time will not be used as an admission by the Department of any liability for delay in any subsequent dispute regarding delays. This Paragraph does not preclude either the Contractor's rights or the Department's rights to pursue a claim for damages under other provisions of the Contract Documents.

## **ARTICLE 9: SUBMITTALS and COORDINATION DRAWINGS**

- 9.1 **SUBMITTALS.**
- A. A Submittal Register, which is a listing of the submittals needed for the Project, will be created by the Professional for the Contractor's use. The Contractor will use this Submittal Register when creating their Submittal Schedule. The Professional's Submittal Register shall serve as the basis of the Prime Contractor's Submittal Schedule and is not by any means an all-inclusive list of submittals required for the project. The Contractors are responsible for reviewing all Contract Documents to fully develop an all-inclusive list of required submittals for the project and utilizing that list when creating the Submittal Schedule.
  - B. The Contractor shall review the Professional's Submittal Register and submit all necessary submittals, whether or not listed on the Submittal Register, through the Submittal Process to the Professional for review and approval. The Professional shall then forward all approved submittals to the Department and consultants with the Submittal Schedule
  - C. Submittals shall be in accordance with the Contract Documents and include, but not be limited to, such items as:
    1. Contractor's, Subcontractor's, manufacturer's or fabricator's shop drawings.

2. Descriptive literature including, but not limited to:
    - a. Catalog cuts
    - b. Diagrams
    - c. Operation charts or curves
    - d. Test reports
    - e. Samples
    - f. Operations and maintenance manual, including parts lists
    - g. Certifications
    - h. Warranties
    - i. Manufacturer
  3. Coordination Drawings as required.
- D. The Professional's approval of submittals does not relieve the Contractor of the responsibility for any deviation from the requirements of the Contract Documents, unless:
1. The Contractor has informed the Professional of such deviation in an attachment to their submittal at the time of submission; and
  2. The Contractor has noted the deviation on the shop drawings; and
  3. The Professional has given approval of the specific deviation. The Professional's approval also does not relieve the Contractor from responsibility for errors or omissions in the submittals.
- If each of these three steps is not performed, the Contractor will not be relieved of the responsibility for executing the Work in complete conformity with the Contract Documents, even though the submittals have been approved.**
- Failure to mention a deviation shall be construed as a non-conformance with the Contract Documents. The Contractor shall be responsible for all costs associated with bringing the Work back into conformance with the Contract Documents, including costs incurred by any other Prime Contractor, the Professional and the Department as a result of such non-conformance.**
- E. The Contractor shall review, approve and submit all submittals required by the Contract Documents or required subsequently by the Department or the Professional in accordance with the Submittal Schedule in an orderly sequence so as to cause no delay in its Work or in the Work of any other Prime Contractor. Submittals shall be properly identified as specified in the Administrative Procedures and in such manner as the Department may require.
- F. By approving and submitting submittals, the Contractor represents that such submittals are sufficient for review purposes and that it has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data and that it has checked and coordinated each submittal with the requirements of the Work and of the Contract Documents. Where field measurements and field construction criteria are not verifiable at the date of the submittal, the Contractor shall ensure that dimensions will be held when constructed.

- G. Submittals will be reviewed and approved within fourteen (14) calendar days of the submission dates established by the Submittal Schedule, unless the Department and the Professional approve a different period of time. The fourteen calendar days span the time from upload of the submittal by the Contractor to the date the Professional transmits the return submittal. The Submittal Schedule shall take transmittal times into account when time periods are reviewed. Review and approval is only for conformance with the design concept of the Project and with the information given in the Contract Documents. Approval of a separate item does not indicate approval of an assembly in which the item functions. Approval of submittals shall be carried out on the Project in accordance with the Administrative Procedures. All submittals must be complete and meet the requirements of the entire specification. The Prime Contractor shall be responsible for all costs associated with delays of the Project incurred as a result of submittal incompleteness and/or disapprovals.
- H. The Contractor shall make any corrections required and shall resubmit submittals until approved. The resubmission shall be acted upon within ten (10) calendar days of its receipt, unless the Department and the Professional approve a different period of time. The ten (10) day period begins on the first full day after the Contractor uploads the resubmission and ends on the date the Professional sends the resubmission to the Contractor. Submittals uploaded earlier than the date established by the Submittal Schedule are not required to be returned until ten (10) days after the date established for the submittal by the Submittal Schedule.
- I. When resubmitting submittals, the Contractor shall direct specific attention to any revisions made, other than the corrections requested by the Professional on previous submissions, by noting such revisions on the resubmissions.
- J. The Professional's approval of shop drawings or samples does not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents, unless the Contractor has informed the Professional of such deviation at the time of submission, has noted the deviation on the submittals, and the Professional has given approval of the specific deviation. The Professional's approval also does not relieve the Contractor from responsibility for errors or omissions in the submittals. Failure to mention a variation shall be construed as a non-conformance with the Contract Documents. The Contractor shall be responsible for all costs associated with bringing the Work back into conformance with the Contract Documents, including costs incurred by any other Prime Contractor, the Professional and the Department as a result of such non-conformance.
- K. No portion of the Work requiring a submittal shall be commenced until the submittal has been approved. Any Work commenced by the Contractor prior to final approval of the submittal is performed by the Contractor at its own risk.
- L. Each Contractor shall be responsible for reviewing every other Prime Contractors' approved submittals for consistency and interface with its Work. Any exception taken to the content of another Contractor's approved submittal must be coordinated/resolved between the Contractors within five (5) calendar days of the Contractor's submittal being approved. If the exception cannot be coordinated/resolved, it must be presented to the Professional through the RFI process within ten (10) calendar days of the Contractor's submittal being approved.

9.2 **SUBMITTAL SCHEDULE.**

- A. Each Contractor shall, within seven (7) days of the Effective Date of the Contract review the Professional's Submittal Register and prepare and submit a Submittal Schedule with all necessary submittals, whether or not listed on the Submittal

Register, to the Lead Contractor, organized by related specification section number sequences, showing all items requiring submission.

- B. The Contractor's initial Submittal Schedule shall include the following, at a minimum:
  - 1. Submittal breakdown by Specification Section number and division; and
  - 2. Scheduled date for initial submittal of item; and
  - 3. Days required after return of an approved submittal to order, fabricate and deliver the specific item to the site.
- C. **The Submittal Schedule shall be integrated and tied to the logic of activities in the Project Schedule by the Lead Contractor to ensure adequate review time is included in the activity durations for all items on the Submittal Schedule.**
- D. Each Contractor shall comply with the Submittal Schedule and submit items within the order and dates established therein. Each Contractor shall not be permitted to stack the submittals in a manner that would inundate the Professional in such a manner that the submittals cannot be reviewed and decided upon in a timely manner.
- E. Submittals relating to materials and equipment that require advanced approval shall be scheduled and submitted before the Contractor issues a purchase order or otherwise acquires the materials or equipment.
- F. Drawings of component items forming a system or that are interrelated shall be organized and submitted concurrently. Certifications to be submitted with the drawings shall be so scheduled. The Submittal Schedule shall be coordinated with the Schedule of Values to ensure delivery and payment requests are projected accurately.
- G. Neither the Department, its designee, nor the Professional will be responsible for the failure of the Contractor to properly schedule the process of material/product design, submittal, review, fabrication, delivery and storage/installation.
- H. The Department may require the Contractor to add and/or delete items on the Submittal Schedule at any time.
- I. The approved Submittal Schedule will become a part of the Contract and the Contractors must comply with it. The Contractor shall provide to the Lead Contractor sufficient information to permit the Lead Contractor to revise and/or update the Submittal Schedule monthly to take into account all changes and coordinate this Submittal Schedule with the Project Schedule. Each such revised edition and/or revision to the Submittal Schedule shall be resubmitted to the Department for approval. This Submittal Schedule shall be coordinated with related submittals of all Prime Contractors.

9.3 **COORDINATION AND SEQUENCING OF SUBMITTALS.**

- A. The Contractor shall coordinate preparation and processing of submittals with the performance of the Work and the Project Schedule so the Work will not be delayed by the submittal process.
- B. The Contractor shall coordinate and sequence different categories of submittals for the same Work and for interfacing units of Work, so that one will not be delayed by the coordination of the Professional's review with another.



- C. No delay damages or time extensions will be granted for time lost due to late, inadequate or uncoordinated submittals or for the time required to resubmit late, inadequate or uncoordinated submittals.
- D. The Contractor shall be responsible to determine items that will require long lead time to procure. Adequate time shall be allowed for long lead items that require submittals to be made early during the course of the Work in the Submittal Schedule and Project Schedule.
- E. No delay damages or time extensions will be granted for lack of consideration being given to long lead items.

9.4 **COORDINATION DRAWINGS.**

- A. **All Contractors are required to participate in the creation and updating of one complete composite set of Coordination Drawings to pre-plan the installation of General, HVAC, Electrical, Fire Protection, Plumbing and other Work as required.**
- B. **The Department may consider the completion of Coordination Drawings for each Contract as a condition of approval for any Invoice involving any material or equipment delivered or for any Work by these Contractors.**
- C. The purpose of these Coordination Drawings is to identify coordination problems and interferences prior to installation. The Contractors shall prepare and submit Coordination Drawings for any Work where close coordination is required for installation of products and materials fabricated off-site by separate Contractors, and where limited space availability necessitates maximum utilization of space for efficient installation of different components. Coordination Drawings are required for all equipment rooms, floors, spaces and other areas in which the Work of two or more trades or Contractors is to be installed and in which the potential for conflict or interference exists, or as determined by the Department.
- D. **The HVAC Contractor will be the Lead Contractor for purposes of the Coordination Drawings and shall facilitate the Coordination Drawing Process between Prime Contractors.**
- E. The HVAC Contractor will prepare background drawings that will be distributed to all of the other Contractors for them to mark-up and return to the HVAC Contractor.
- F. The Coordination Drawings shall:
  - 1. Show the Work of all Contractors impacted; and
  - 2. Be drawn to a scale not smaller than 1/4" = 1'-0" (30" x 42" sheet size); and
  - 3. Show clearly in both plan and elevation that all Work can be installed without interference; and
  - 4. Show the interrelationship of equipment and systems to indicate coordination among trades; and
  - 5. Indicate required installation sequences; and
  - 6. Be based on submitted shop drawings and Contract Documents, and include equipment foundations, all equipment, piping, conduit, ductwork, panels, control centers and related appurtenances.

- G. The Department may assist, if requested, in the resolution of conflicts or disputes with locations of Work items found by the Contractors during the preparation of the Coordination Drawings.
- H. The HVAC Contractor will incorporate items indicated on the marked-up drawings onto the background drawings and provide these final Coordination Drawings for other Contractors use. One paper set and one PDF electronic format, in its native software of the Coordination Drawings are to be provided to the Department.
- I. **Since the preparation of Coordination Drawings acceptable to the Department is a contract requirement, the cost is to be included in each Contractor's bid.**

**Any Work installed prior to approval of Coordination Drawings shall be at the Contractor's risk. Subsequent relocation required to avoid interferences shall be made without additional expense or time extensions to the Department.**

- 9.5 **STANDARDS OF QUALITY.** Where trade names, catalog number and manufacturers of material or equipment are specified, they are mentioned for the purpose of establishing a standard of quality, performance, and appearance, and for establishing a standard for competitive bidding. If the Contractor wishes to utilize material or equipment that they believe is of the same type, but manufactured by others than those named in the specifications, the Contractor shall certify that the material or the equipment is equal in quality, performance and appearance to that mentioned in the specifications. The Contractor shall submit to the Professional and the Department, subsequent to the Award of Contract, a request to install such material or equipment. The Contractor's request shall include a comprehensive description of the material or equipment proposed to be utilized as an equal, including engineering, construction, and dimension and performance data. Within thirty (30) days after receipt of the Contractor's request, the Professional will render a determination to the Contractor, which is final. If the Contractor refuses or fails to proceed in accordance with the Professional's determination, the Department may issue cure or non-conformance notices and/or declare the Contractor in default.
- 9.6 **SUBSTITUTION OF MATERIALS.** If the Contractor desires to furnish materials or equipment other than that which is specified, the Contractor shall submit to the Professional a comprehensive description of the material or equipment proposed for substitution, including engineering, construction, dimension, performance and appearance data, along with a statement of the cost involved. The Professional, with the approval of the Department, shall render a determination to the Contractor. If the substituted material or equipment is approved, the Contractor is responsible for any and all costs incurred to implement the substitution and for eliminating any additional time that may be needed as a result of implementing the substitution. If the cost of the substituted item is less than the specified item, the Department is entitled to a credit for the difference between the cost of the substituted item and the item specified.

## **ARTICLE 10: PROTECTION OF PERSON & PROPERTY AND INSURANCE AND INDEMNIFICATION**

- 10.1 **SAFETY PRECAUTIONS AND PROGRAMS.** The Contractor shall recognize that it is important to business to prevent the occurrence of incidents that lead to occupational injuries or illnesses. The Contractor is responsible for initiating, maintaining and supervising all safety precautions and programs required under its portion of the Work.
- 10.2 **SAFETY OVERVIEW.** The Contractor and its subcontractors of all tiers will be responsible for the safety and security of its employees under their control and as to its area of Work.

- A. The Contractor and its Subcontractor(s) of any tier shall be required to have its company Safety Program in place and implemented throughout the duration of the project.
- B. The Contractor will have a Site Safety Program, maintain injury records as required by OSHA. Upon request by the Department, the Contractor shall make available the Site Safety Program, information on injury logs, safety meetings and their topics, inspection reports and other items concerning Project safety.
- C. The Contractor will inform the Department of any Federal or State inspection, and the Department will receive copies of all Federal and State inspection reports, citations, penalties, abatement dates, etc.
- D. All Contractors will give full cooperation to all authorized Inspectors, who may periodically inspect the Project without notice.

10.3 **SAFETY OF PERSONS AND PROPERTY.** The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to:

- A. All employees involved in the Work and all other persons who may be affected thereby; and
- B. All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of its subcontractors of any tier; and
- C. Other property within the Contract Limits or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
- D. All areas of the Project site where unauthorized entry or presence would present a potential hazard to the health and safety of trespassers shall be adequately posted to prevent access by unauthorized personnel.

10.4 **COMPLIANCE WITH SAFETY LAWS.** The Contractor shall comply at all times with all applicable Federal, Commonwealth, and local laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property and to protect them from damage, injury or loss. The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities until the acceptance of all on-site physical work, change order work, and/or demobilization. All areas of the Project shall be hardhat areas. All persons within the Contract Limits are required to be protected by protective helmets in compliance with Occupational Safety & Health Administration (OSHA) requirements.

10.5 **EMPLOYEE SAFETY ORIENTATION AND SAFETY MEETINGS.**

- A. Each Contractor and its Subcontractor(s) of any tier shall follow OSHA requirements regarding the recognition and avoidance of unsafe conditions and the regulations applicable to the work environment.

- B. The Contractor and each Subcontractor shall also provide a company-specific basic site and safety orientation to each individual before they begin Work on the Project. This orientation shall cover general safety rules, potential hazards, site work rules, wearing of protective equipment, etc. The Contractor and each Subcontractor shall keep a record of all attendees and topics discussed.
- C. The Contractor and each of its subcontractors shall hold weekly Toolbox Talks Meetings at the Project site.

10.6 **FIRST AID TREATMENT.**

- A. The Contractor shall keep on site a first aid kit supplied according to current regulations and shall have a certified person trained in first aid and CPR to cover those periods outside of normal project working hours.

10.7 **PROJECT EQUIPMENT.**

- A. Each Contractor and its Subcontractor(s) of any tier will supply all necessary equipment and take the required precautions to maintain the equipment according to the current regulations and Contract Documents. The Contractor shall accept the responsibility to assure that all of the necessary safety equipment is supplied and used as required.
- B. Each Contractor shall clearly mark its name on each and every piece of its equipment on-site. The name shall be marked in a place on the equipment that is clearly visible.
- C. All tools, saws and mechanical equipment utilized by the Contractor shall have protective safety devices in operating order when using the equipment.

10.8 **EMPLOYEE AND VISITOR DRESS REQUIREMENTS.**

- A. This Project shall be a hardhat Project and, all supervisors, employees and visitors shall be required to wear a suitable hardhat while on the Project site.
- B. Other appropriate personal protective equipment shall be provided and worn as required for personal safety and protection.

10.9 **EMERGENCY NOTIFICATION.** A procedure will be established by each Contractor to provide emergency communications to all individuals on the site. This procedure will not be used to handle routine calls to individuals.

10.10 **COMPLIANCE WITH SAFETY REGULATIONS.**

- A. The Contractor's failure to comply with the safety requirements will be considered as non-compliance with the Contract and may result in remedial action as provided by the Contract.
- B. Even though the Department has no duty regarding the Contractor's compliance with safety regulations, if the Department notifies any Contractor of any safety issue, the Contractor shall make all reasonable efforts to correct the condition or act.

If a Contractor or Subcontractor refuses to correct the safety issue, condition or act, the Department, in its sole discretion, may take any other action it deems appropriate.

All costs incurred due to correcting the Contractor's safety issue, condition, or act shall be borne by the Contractor which created the safety issue, condition or act and costs will be back-charged to this Contractor.

C. Each Contractor shall be responsible for payment of all fines and/or claims for damages levied for deficiencies relating to conduct of Contractor's Work.

- 10.11 **EXPLOSIVES.** Unless permitted in the specifications, the use of explosives and other hazardous materials or equipment is not permitted for the execution of the Work. If explosives are permitted, the Contractor shall observe the utmost care, performing such Work with experienced personnel and in accordance with all Federal, Commonwealth, local, Departmental, and institutional regulations, so as not to endanger life or property. Rock encountered within five (5) feet of pipelines or buildings shall be removed without blasting. All explosives shall be stored in a secure and safe manner, in strict conformity with all Federal, Commonwealth and municipal regulations and all such storage shall be clearly marked "Dangerous-Explosives" and shall be in the care of competent watchmen at all times. The Contractor shall provide insurance in accordance with the special insurance provision in these General Conditions relating to "Blasting". The Contractor shall be responsible for all damages caused by the use of explosives, hazardous materials and/or equipment, and blasting and shall notify the Department of any claims of damage associated with this Paragraph at the time of claim.
- 10.12 **REMEDIATION OF DAMAGES.** The Contractor shall remedy all damages or loss to any property caused in whole or in part by the Contractor, any Subcontractor, any sub-subcontractor, or anyone directly or indirectly employed by any of them. If damage or loss is attributable to faulty drawings or specifications or to the acts or omissions of the Department or Professional, and the damage or loss is not attributable to any fault or negligence of the Contractor, then the Contractor shall not provide remediation.
- 10.13 **LOADS.** The Contractor shall not load or permit any part of the Work to be loaded so as to endanger the safety of persons or property.
- 10.14 **CONTRACTOR'S LIABILITY INSURANCE.** The Contractor, during the progress of the Work and until the acceptance of all on-site physical work, change order work, and/or demobilization, shall purchase and maintain such insurance as will protect it from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations are performed by itself or by any Subcontractor:
1. Claims under Worker's Compensation Disability Benefit and other similar employee benefit Acts; and
  2. Claims for damages because of bodily injury, occupational sickness or disease, or death of its employees, and claims insured by usual personal injury liability coverage; and
  3. Claims for damages because of bodily injury, sickness or disease, or death, of any person other than its employees, and claims insured by usual personal injury liability coverage; and
  4. Claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom.
- 10.15 **INSURANCE LIMITS.** The insurance required by this Article shall be written for not less than any limits of liability specified in this Article, or required by Law.
- 10.16 **CERTIFICATES OF INSURANCE.** Certificates of Insurance complying to this Article and acceptable to the Department shall be filed with the Department prior to the

commencement of on-site work. These certificates shall contain a provision that coverages afforded under the policies shall not be canceled or changed until at least thirty (30) calendar days notice has been given to the Department. Renewal certificates must be provided to the Department prior to the expiration of the prior policy as stated on the certificate. The insurance certificate shall also name the Commonwealth of Pennsylvania, the Construction Manager, if there is one on the project, and the Professional as additional insureds.

10.17 **COMMERCIAL GENERAL LIABILITY AND PROPERTY DAMAGE LIABILITY INSURANCES.** The Contractor's commercial general liability insurance shall be in an amount not less than \$1,000,000 per occurrence, including accidental death, to any person and subject to the same limit for each occurrence, and in an amount not less than \$2,000,000 in the aggregate. This policy must list general aggregate and completed operations aggregate. This policy shall not have any exclusion for explosion, underground, or collapse (XC&U). The Contractor's property damage liability insurance shall be in an amount not less than \$2,000,000 for each occurrence.

A. For Subcontractors, the Contractor shall either:

1. Require each of its Subcontractors to procure and to maintain Subcontractors' commercial general liability, automobile liability, and property damage liability insurance of the type and in the same amounts as specified in this subsection for the life of its subcontract and/or until the acceptance of all of its on-site physical work, change order work, and/or demobilization;

**OR**

2. Insure the activity of its Subcontractors in its own policy.

B. If required by a Special Condition, by law, or the Contractor deems necessary, the Contractor's and its Subcontractors' liability insurance shall include additional riders providing for adequate protection against the indicated special hazards (e.g., blasting, flooding, underpinnings, pollution, etc.).

C. The Contractor must submit to the Department, within ten (10) calendar days from the Initial Job Conference, and prior to the beginning of on-site work, the subcontractor's and sub-subcontractor's certificates of insurance which name the Commonwealth of Pennsylvania and Commonwealth Agency as an additional insured.

10.18 **PROPERTY INSURANCE.** The Contractor shall, until all physical on-site work is complete, including change order work, punch list work, demobilization or seasonal work, maintain insurance on all insurable work included in the Contract against loss or damage by fire and lightning and those perils covered by the extended coverage endorsement. Insurable work includes work both interior and exterior of any building being constructed. The property insurance must include a Builder's Risk Policy or an installation floater that covers all risks and must have policy limits which meet the full insurable value of the interests of the Commonwealth of Pennsylvania and the Department. The Contractor and all subcontractors are required to produce certificates of insurance, naming the Commonwealth of Pennsylvania and Commonwealth Agency as an additional insured.

10.19 **COMMERCIAL AUTOMOBILE LIABILITY INSURANCE.** The Contractor's Commercial Automobile Liability Insurance shall be in an amount not less than a \$1,000,000 Combined Single Limit (CSL) or in the alternative, provided that there is not Commercial Automobile Policy, then a separate limit under the General Liability Policy providing for \$1,000,000 Non-Owned and Hired liability.

- 10.20 **UNMANNED AIRCRAFT SYSTEMS/UNMANNED AERIAL VEHICLES/DRONES INSURANCE.** The Contractor, if it chooses to use such a drone device, shall have, or its Subcontractor shall have, specific UAS/UAV/Drone insurance and shall adhere to all Federal Aviation Administration (FAA) regulations and all Federal, State, and Local laws, ordinances, and regulations regarding their use on the Project site. The Contractor shall notify the Department of its intended use of this device and provide the insurance certificate to the Department prior to its use. The Contractor shall be responsible for all damages caused by the use of these devices and shall notify the Department of any claims of damage associated with this Paragraph at the time of claim.
- 10.21 **RISK TO CONSTRUCTION WORK.** The risk of damage to the construction work is that of the Contractor and surety. No claims for such loss or damage will be recognized by the Department, nor will such loss or damage excuse the complete and satisfactory performance of the Contract by the Contractor.
- 10.22 **UNACCEPTABLE SURETY OR INSURANCE COMPANY.** If the surety on the bonds or the insurance company providing the required coverage becomes unsatisfactory to the Department, the Contractor must promptly furnish such additional security or insurance coverage as may be required to protect the interest of the Department. The Contractor shall furnish the Department, when requested, satisfactory proof of coverage of each type of Bond and/or insurance required. Failure to comply with this provision shall result in the cessation of the Work, and shall be sufficient grounds to withhold any further payments due the Contractor and/or to declare the Contractor in default. The Department will not consider any claim for an Extension of Time, costs, or damages because of time lost due to such instance brought by the noncompliant Contractor. The noncompliant Contractor shall be responsible for damages incurred by other Prime Contractors in accordance with these General Conditions.
- 10.23 **INDEMNIFICATION.** The Contractor shall indemnify and hold harmless the Commonwealth, Department, and the Professional and their agents and employees from and against all claims, damages, losses and expenses, including attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense is:
- A. Attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom; and
  - B. Caused in whole or in part by any negligent act or omission of the Contractor or any Subcontractor, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 10.24 **INDEMNIFICATION NOT LIMITED BY EMPLOYEE BENEFITS ACTS.** In any and all claims against the Commonwealth, Department, or the Professional or any of their agents or employees, by any employee of the Contractor or any Subcontractor, the indemnification obligations under this Article shall not be limited on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor under Worker's Compensation Acts, Disability Benefit Acts, or other employee benefit Acts.
- 10.25 **INDEMNIFICATION DOES NOT COVER THE CONSTRUCTION MANAGER'S OR THE PROFESSIONAL'S ACTIONS.** The obligations of the Contractor under this Article shall not extend to the liability of the Construction Manager (if retained for the Project) or the Professional, the Professional's consultants, agents, or employees arising out of:
- A. The preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or

- B. The giving of, or the failure to give, directions or instructions by the Professional, its agents or employees, provided such giving, or failure to give, is the primary cause of the injury or damages.

10.26 **WORKPLACE DRUG AND ALCOHOL POLICY.** The Department is committed to providing a safe workplace for the workers assigned to the Project, promoting high standards of employee health and fostering productivity. Contractor shall establish a drug and alcohol policy for the project with the goal of maintaining a work environment that is free from the effects of the use of illegal drugs and alcohol. Anyone employed at the Project site will comply with the contractor's drug and alcohol policy.

The Department reserves the right to amend this procedure upon notice to the Prime Contractor.

- A. **COMPLIANCE PROCEDURE:** The Department reserves the right to audit any drug and alcohol policy program required by this specification to verify compliance results within twenty-four (24) hours of the Department's notification of intent to audit. The Department shall have free right of access to all relevant records of the Prime Contractor and their subcontractors for this purpose, provided such record disclosures are within the scope of the Commonwealth of Pennsylvania's Department of Health and Human Services guidelines pertaining to confidentiality of employee records.

The Contractor's pre-engagement employees who receive a positive test result shall immediately leave the project site. Transportation of employees receiving a positive test result is the direct responsibility of the employing Prime Contractor. Furthermore, pre-engagement employees receiving a positive test result shall not be permitted to return to the project site earlier than ninety (90) days from the date of the positive test. At that time, the employee must be tested again.

## **ARTICLE 11: CHANGES IN THE WORK**

11.1 **CHANGES.** The Department, without invalidating the Contract, may direct changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions. All such changes in the Work will be authorized by Change Order or Field Order.

- A. **The Contractor agrees that payment under any method noted within this Article will be the exclusive compensation for such addition, deletion, or other revision to the original Contract, including any and all costs associated with acceleration, stacking and re-sequencing of forces required by the change in order to maintain the Project Schedule.**
- B. If it is not possible to complete the Work in accordance with the Project Schedule by acceleration, stacking or re-sequencing, the Contractor may request an Extension of Time. Adequate information and proper form submission must be provided to validate this request. The Department reserves the right to deny requests not accompanied by adequate information and proper form submissions.
- C. The language in this Article must be construed in conjunction with the detailed language of the Administrative Procedures.

11.2 **COST OF CHANGE ORDER.** The debit or credit cost to the Department resulting from a change in the Work shall be determined in accordance with the Change Order Administrative Procedure as determined by the Department.



- 11.3 **DISAGREEMENT AS TO COST OR CREDIT FOR CHANGE ORDER.** If the Department and the Contractor cannot agree as to the cost or credit to the Department resulting from a change in the Work, the Department shall determine the cost or credit. The Contractor **must** proceed with the Change Order work under this Article if directed to do so by the Department. The Contractor may submit any dispute for cost to the Department in accordance with the Dispute Resolution Article of these General Conditions. The Department may, in the Department's sole discretion, monitor any or all disputed cost work on a time and material force account basis. If the Department approves the change as a force account Change Order, the Contractor would be required to show proof of incurred cost as stipulated under the provisions of Change Order Administrative Procedure.
- 11.4 **UNIT PRICES SET OUT IN BID OR PROPOSAL.** This paragraph shall not be invoked without the Department's approval. If unit prices were required in the Contract Documents and subsequently agreed upon, and, if the quantities originally contemplated increased in excess of 125% or decreased below 75% of the original contract quantity, the applicable unit prices may be equitably adjusted by Change Order to prevent such hardship, at the sole discretion of the Department. The Contractor must provide evidence that is acceptable to the Department that a hardship exists before an adjustment will be made.
- 11.5 **UNCLASSIFIED EXCAVATION.**
- A. Excavation, if required for this Project, will be unclassified and will include all types of earth and soil, any pebbles, boulders, and bedrock, municipal trash, rubbish and garbage, and all types of debris of the construction industry such as wood, stone, concrete, plaster, brick, mortar, steel and iron shapes, pipe, wire asphaltic materials, paper and glass. Unclassified excavation does not include unforeseen concrete foundations, walls, or slabs.
  - B. All materials encountered which are identified as described in the previous paragraph as unclassified shall be removed to the required widths and depths to create a finished product as shown and/or noted on the drawings and as written in the specifications. No additional compensation or time shall be given to the Contractor for this unclassified excavation.
  - C. Any unclassified items described in paragraphs B and C above that are discovered during any excavation are not concealed conditions or unknown physical conditions below the surface for purposes of the Concealed Conditions paragraph of these General Conditions.
- 11.6 **CONCEALED CONDITIONS.**
- A. The Department recognizes two types of concealed conditions which might be encountered during the performance of the Work, namely:
    - 1. Concealed conditions which are unascertainable from the plans, Contract Documents, visits to the site, or reasonable investigation, and which are at variance with the conditions indicated by the Contract Documents; or
    - 2. Unknown physical conditions below the surface of the ground of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

- B. The Contractor has twenty-four (24) hours after the first observance of the concealed condition to provide notice to the Department.
  - C. If the Department decides that either of the two concealed conditions described above in (A) has occurred during construction, then the Contract Sum shall be equitably adjusted by Change Order. No adjustment shall be made to the Contract Sum under this paragraph, however, for concealed conditions encountered during cutting and patching of Work.
  - D. In the event that concealed or unknown conditions described above in (A) preclude either the Contractor or the Department from establishing either a methodology or a quantity of work to be priced into a Change Order before commencement and performance of Work, the Department reserves the right to do any of the following:
    - 1. If only the quantity of Work is unknown, the Department may issue a Change Order to perform work in a quantity established by the Department. The Department will monitor the actual quantities and, upon completion of the Work, issue a second Change Order to adjust the original quantity.
    - 2. If the Department deems that either the methodology and/or scope of the Change Order are indeterminable, the Department may issue an exploratory Change Order to determine the appropriate methodology and scope before issuing a follow-up Change Order to complete the Work. If the Department determines, after review of the results of the exploratory Change Order, that this Change Order was not successful in establishing the methodology or scope of work, the Department may opt for performing and monitoring the entire Change Order Work on a time and material force account basis. If the Department decides to proceed in this manner, the Contractor will be required to show proof of incurred cost as stipulated under the provisions of Change Order Administrative Procedure.
- 11.7 **NO CLAIMS FOR ADDITIONAL COST OR TIME.** No claims for increased costs, charges, expenses, or damages of any kind, except as provided in the General Conditions, shall be made by the Contractor against the Department for any delays or hindrances from any cause whatsoever, including, but not limited to, strikes, walkouts or work stoppages during the progress of any portion of the Work. The Department may, however, address such non-compensable delays by extending the time for completion of the Work, as provided in the Contract, which extensions shall constitute the exclusive remedy between the parties.
- 11.8 **MINOR CHANGES IN THE WORK.** The Department may direct minor changes in the Work (such as minor relocations or field revisions) that the Department and the Contractor mutually agree do not involve an adjustment in the Contract Sum or an extension of the Contract time and which are not inconsistent with the intent of the Contract Documents. Such changes may only be enacted by no cost Change Order, or by other order. Such changes are binding on the Department and the Contractor. The Contractor shall carry out such no cost Change Orders promptly.
- 11.9 **DIRECTIVE TO COMMENCE CHANGE ORDER WORK.** The Department may direct the Contractor to commence Change Order Work prior to a fully executed Change Order. Such direction will not be given until the Department generates the scope and confirms that funding is available to complete the Change Order Work. The Contractor shall proceed immediately upon the Department's notification of the directive to the Contractor.

## **ARTICLE 12: NON-CONFORMING WORK AND CORRECTIONS**

- 12.1 **WORK COVERED CONTRARY TO REQUEST.** If any Work is covered contrary to the request of the Department or the Professional, the Work must, if required by the Department or the Professional, be uncovered for observation and replaced, at the Contractor's expense with no Extension of Time.
- 12.2 **UNCOVERING OF WORK.** If any Work has been covered which the Department, its designee or the Professional has not specifically requested to observe prior to being covered, the Department or Professional may request to see such Work and the Work shall be promptly uncovered by the Contractor.
- A. If such Work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement shall be charged to the Department by appropriate Change Order.
- B. If such Work is found to be not in accordance with the Contract Documents, the Contractor shall pay costs to make the Work conform and the cost of replacement, unless it is found that this condition was caused by another Prime Contractor. In that event, the Department shall pay the Contractor for such costs and will issue a credit Change Order for such costs from the responsible Prime Contractor(s).
- 12.3 **CORRECTION OF WORK REJECTED BY THE DEPARTMENT.** The Contractor shall promptly correct all Work rejected by the Department, its designee or the Professional as defective or as failing to conform to the Contract Documents. The correction must be implemented regardless of when such Work is observed and whether or not the Work was fabricated, installed or completed or whether such Work had been paid for by the Department. The Contractor shall bear all costs of correcting such rejected Work, including the cost of the Professional's additional services and any additional cost incurred by the Department and/or any other agency.
- 12.4 **CORRECTION OF WORK AFTER ACCEPTANCE.** If, after the date of Final Inspection and acceptance of all Work performed under the Contract, any of the Work is found to be defective or nonconforming, the Contractor shall correct such Work promptly after receipt of a notice from the Department, unless the Department has previously given the Contractor an acceptance of this specific condition. The Department should give such notice of rejection promptly after discovery of the condition. Approval or payment of an Invoice by the Department shall not constitute acceptance.
- 12.5 **CORRECTION AT NO COST TO THE DEPARTMENT.** All defective or nonconforming Work shall be promptly removed from the site, and the Work shall be corrected to comply with the Contract Documents without cost to the Department.
- 12.6 **COST OF DAMAGE TO OTHER CONTRACTORS' WORK.** The Contractor shall bear the cost of replacing all Work of any other Prime Contractor that is destroyed or damaged by the removal and/or correction of the Contractor's defective or non-conforming Work.
- 12.7 **FAILURE TO CORRECT DEFECTIVE OR NON-CONFORMING WORK.** If the Contractor does not remove such defective or nonconforming Work within the time set forth by the Department, the Department may have the defective or nonconforming Work removed, implement any corrective work by any means necessary, and issue a credit change order to the offending Contractor for all costs associated with the correction. Failure to correct defective or non-conforming work as directed by the Department may be cause for default and/or breach of contract.
- 12.8 **INVESTIGATION BY THE DEPARTMENT.** The Department reserves the right, upon investigation of installation of defective and/or nonconforming Work, to note this situation

in the Contractor Responsibility Program and may consider suspension of the Contractor in accordance with Section 531 of the Commonwealth Procurement Code. The Department may also, in its sole discretion, find the Prime Contractor in breach of its Contract and/or declare the Contractor in default of its Contract in accordance with the Termination Article of these General Conditions.

- 12.9 **ACCEPTANCE OF NONCONFORMING WORK.** If the Department knowingly elects to accept nonconforming work, it may do so instead of requiring its removal and correction. If nonconforming work is accepted, a credit Change Order shall be issued to reflect an appropriate reduction in the Contract Sum, or, if the amount is determined after final payment, it shall be paid by the Contractor and/or the Contractor's surety.
- 12.10 **DEPARTMENT'S RIGHT TO CARRY OUT THE WORK.** If the Contractor fails to carry out the Work in accordance with the Contract Documents or fails to perform any provision of the Contract, the Department may, after **three (3) days** notice to the Contractor and without prejudice to any other remedy, carry out the Work in accordance with the Contract Documents, or correct such failures, defects, or non-conforming work. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of carrying out the Work or correcting such failures, including the cost of the Department's designee and the Professional's additional services made necessary by such failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and/or the Contractor's Surety shall pay the difference to the Department.
- 12.11 **OBLIGATIONS OF CONTRACTOR NOT LIMITED BY THIS ARTICLE.** The obligations of the Contractor under this Article are in addition to, and not in limitation of, any obligations imposed upon the Contractor by the Contract Documents or otherwise prescribed by Law.

## **ARTICLE 13: PAYMENTS AND COMPLETION**

- 13.1 **SCHEDULE OF VALUES.**
- A. The language in this Article must be construed in conjunction with the detailed language of the applicable Administrative Procedure.
- B. Within forty five (45) days of the Effective Date of the Contract and prior to the first Invoice, the Contractor shall submit for the Department's and the Professional's approval, a detailed Schedule of Values, indicating values for line-items of the Work. The Schedule of Values must provide the aggregate total Contract sum, divided to facilitate payments to Subcontractors. The Schedule of Values shall be prepared and supported by such data required by the Department to substantiate its correctness in accordance with the following:
1. Each item in the Schedule of Values shall include its proper share of overhead and profit.
  2. When more than one building or structure is included in the Contract, the Contractor shall submit a Schedule of Values, indicating Unit Prices for all items of Work within the separate buildings, separate floor levels, site work and/or structures, or as deemed acceptable by the Department.
- C. This Schedule of Values, when accepted by the Department, will be used as a basis for the Contractor's invoices. This breakdown may also be used by the Department to

determine the cost or credit to the Department resulting from the changes in the Work.

13.2 **INVOICE FOR PROGRESS PAYMENTS.**

- A. During the progress of the Work, the Contractor shall submit invoices of the value of the Work performed to the Department. All invoices shall be supported by data, as required by the Department, substantiating the Contractor's right to payment. The Professional and the Department will review and accept the invoice for validity.
- B. **STORED MATERIALS:** If upon the determination of the Department as to reasonableness, payments for stored material which is scheduled to be installed more than forty-five (45) days from request for payment are to be made to the Contractor on account of materials or equipment which are not yet incorporated in the Work, but are delivered and suitably stored in an appropriate facility or at the site. Such payments shall be conditioned upon submission by the Contractor of Bills of Sale forms provided by the Department to establish the Department's title to such materials or equipment. The Contractor shall remain responsible for all losses of materials and equipment that remain under its custody and control, regardless of the exclusions in insurance policies. Warranties do not begin until the date of final acceptance.

13.3 **CONTRACTOR WARRANTS TITLE TO ALL WORK PASSES FREE OF LIENS.** The Contractor warrants and guarantees that title to all work, materials and equipment covered by an Invoice, whether incorporated in the Project or not, will pass to the Department upon final acceptance by the Department. The title shall be free and clear of all liens, claims, security interests or encumbrances (hereinafter referred to in this Article as "liens"). The Contractor further guarantees that no work, materials or equipment covered by an Invoice was acquired by the Contractor, its employees, its Suppliers or its Subcontractors subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor, its employees, its Suppliers or its Subcontractors.

13.4 **NEITHER PAYMENT NOR OCCUPANCY CONSTITUTES ACCEPTANCE OF WORK NOT IN CONFORMANCE WITH CONTRACT DOCUMENTS.** Under no circumstances will any of the following occurrences constitute an acceptance of any Work not in accordance with the Contract Documents:

- 1. An approval of an application for a progress payment; or
- 2. Full or partial payment to the Contractor of any progress payment; or
- 3. Partial or entire use or occupancy of the Project by the Client Entity.

13.5 **PAYMENTS WITHHELD.**

A. The Department may decline to approve an Invoice in whole or in part if the Work has not progressed to the point indicated, or the quality and quantity of the Work is not in accordance with the Contract Documents. The Department and Professional may also decline to approve any Invoice, because of subsequently discovered evidence or subsequent inspections, which may nullify the whole or any part of any Invoice previously issued to such extent as may be necessary in their opinion to protect the Department from loss because of deficiency items, including but not limited to:

- 1. Defective/non-conforming work not remedied; or

2. Third party claims filed with reasonable evidence and costs by other Prime Contractors; or
  3. Damages to another Prime Contractor; or
  4. Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Sum; or
  5. Reasonable indication that the Work will not be completed within the contract time; or
  6. Unsatisfactory prosecution of the Work by the Contractor, or
  7. Failure of the Contractor to maintain insurance, or
  8. Failure of the Contractor to properly submit the required administrative submittals.
- B. If the Department withholds payment from the Contractor for any of the aforementioned reasons, the Department will provide notification to the Contractor of the reason for withholding payment within fifteen (15) days of the Department's receipt of the Invoice.

The Contractor may withhold payment from a Subcontractor, Supplier, or Manufacturer responsible for the defective/non-conforming item. If payment is withheld from the Subcontractor, Supplier, or Manufacturer for such defective/non-conforming item, the Contractor must notify the Subcontractor, Supplier, or Manufacturer and the Department (including the Construction Manager if applicable) of the reason for the withholding within 15 days of the date after the Contractor receives the notice of defective/non-conforming item from the Department.

- 13.6 **PAYMENT MADE WHEN GROUNDS ARE RESOLVED.** When issues for withholding payments are resolved to the Department's satisfaction, payment shall resume or be made to the Contractor for the amounts withheld. The grounds for withholding payment shall be considered resolved upon the Department's issuance of a notice indicating that the issue has been resolved.
- 13.7 **RETAINAGE.** The Department may retain a portion of the amount due the Contractor to ensure the proper performance of the Contract. In computing the amount payable in accordance with this Article on any current Invoice:
- A. **The Department may deduct and retain up to six percent (6%) of the then total invoices until fifty percent (50%) of the Work has been satisfactorily physically completed as determined by the Department. Satisfactory completion includes compliance with the Contract Documents, and meeting all Contract obligations.**
  - B. After fifty percent of the Contractor's Work is physically complete, the sum withheld by the Department shall not exceed three percent (3%) of the original Contract Sum. All money retained by the Department may be withheld from the Contractor until Substantial Completion of its Work.
  - C. In the absence of sufficient reason, within 20 days of the receipt of retainage payment to the Contractor, the Contractor shall pay all subcontractors with which it has contracted their earned share of the payment the Contractor received.
- 13.8 **MONEY WITHHELD DUE TO CLAIMS OF ONE PRIME BASED ON DELAY OF ANOTHER CONTRACTOR.** In the event a dispute arises between Prime Contractors based upon increased costs claimed by one Prime Contractor occasioned by delays or other actions

of another Prime Contractor, the Department may, upon receipt of evidence of actual or imminent damages, withhold the amount of such damages from the Prime Contractor causing the claim. This amount shall be withheld until such time as a final resolution is agreed to by all parties directly or indirectly involved, unless the Prime Contractor causing the additional claim furnishes a Bond satisfactory to the Department to indemnify the Department against the claim.

13.9 **DEPARTMENT DOES NOT MAKE PAYMENT.** If the Department fails to make payment to the Contractor within forty-five (45) days after receipt of an acceptable Invoice, the Contractor may file a claim for interest. No interest penalty payment shall be paid, however, if payment is made on or before the fifteenth (15<sup>th</sup>) calendar day after the payment due date. The Contractor is not entitled to stop work in any event, unless the Department exercises its right to suspend the work, as provided in these General Conditions. According to 62 Pa. C.S. §3938, as amended, this failure to pay provision shall not apply if:

- A. The General Assembly failed to enact a budget for the fiscal year of payment; or
- B. The General Assembly failed to enact an operating budget for the fiscal year of payment or a capital budget for the capital project; or
- C. The Federal, State, or local government failed to pay funds designated or to be designated for the specific project.

13.10 **WORK CANNOT BE COMPLETED THROUGH NO FAULT OF CONTRACTOR.** If, after Final Inspection, items of Work cannot be completed because of any of the following conditions:

- A. Unseasonable considerations, such as bituminous paving, landscaping, etc.; or
- B. The Department agrees that particular items need not be completed until a subsequent date; or
- C. The Department delays the approval of the Final Invoice for any unreasonable length of time, (reasonableness shall be determined by the Professional and the Department)

the Department may agree to release partial payment of the remaining Contract balance to the Contractor. This payment shall be calculated by deducting one and one-half (1-1/2) times the dollar value of items on the punch list from the remaining Contract balance.

13.11 **Final Payment Not Due Until Conditions Met.** Neither the final payment nor the remaining retained percentage (if any) becomes due until the Contractor submits to the Department:

- A. An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the Department might in any way be responsible, have been paid or otherwise satisfied by the Contractor; and
- B. Statements from the Contractor's Surety Company and the Contractor's certificate on forms satisfactory to the Department as to Contractor's payment of all claims for labor, materials, equipment rentals and public utility services; and

- C. If required by the Department, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as is designated by the Department.

If any Subcontractor refuses to furnish a release or waiver, as required by the Department, the Contractor may furnish a Bond satisfactory to the Department to indemnify the Department against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Department all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

- 13.12 **RELEASE OF FUNDS IF DELAY IN FINAL INSPECTION NOT DUE TO THE CONTRACTOR'S FAULT.** If Final Inspection is materially delayed through no fault of the Contractor, the Department shall, upon certification by the Professional, make payment of the balance due for that portion of the Work fully completed and accepted by the Department. Such payment will not terminate the contract. If the remaining balance of Work not fully completed or corrected is less than the retainage, and, if performance and payment bonds have been furnished as required, the Contractor must submit to the Department, prior to certification of the payment, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted by the Department. Such payment shall be made under the terms and conditions governing final payment, except that it does not constitute a waiver of any of the Department's claims against the Contractor.
- 13.13 **FINAL PAYMENT AS WAIVER OF CLAIMS.** The making of final payment constitutes a waiver of all claims by the Department, **except** those arising from:
  - A. Unsettled claims;
  - B. Faulty, nonconforming or defective work or material;
  - C. Failure of the work or material to comply with the requirements of the Contract Documents; or
  - D. Terms of any special warranties and/or special guarantees required by the Contract Documents.
- 13.14 **ACCEPTANCE OF FINAL PAYMENT AS WAIVER OF CLAIMS.** The acceptance of final payment by the Contractor constitutes a waiver of all claims by the Contractor against the Department.

## **ARTICLE 14: PROJECT CLOSEOUT**

- 14.1. **CLOSEOUT GENERALLY.** Project closeout consists of a Final Inspection which is deemed to be a significant activity considered to be a Project Milestone. During the Final Inspection, a Punch List of incomplete Work will be generated as discussed below. The Contractor must complete all Punch List items within 30 calendar days after Final Inspection. It is the Contractor's responsibility to request Final Inspection and the Professional's and Department's responsibility to determine if the Work is substantially complete for Final Inspection to occur.
- 14.2. **FINAL INSPECTION.**
  - A. A determination of substantial completion will occur within five (5) days from the request by the Contractor to the Department for a Final Inspection and an application for final payment. If the work is determined to be at substantial completion, the Final



Inspection shall be conducted within ten (10) days by the Department and the Professional. The Contractor or its authorized representative must be present throughout the duration of the Final Inspection.

1. The Department has the sole authority, in light of the Project's Scope of Work, to determine whether parts or the whole of the Project are ready for a Final Inspection.
- B. If the Work is determined to be at substantial completion, the Professional shall issue a certificate of completion and a final certificate for payment. In such case, the Professional shall produce and deliver to the Contractor, at Final Inspection, a list of uncompleted items and a reasonable cost of completion (Punch List).
1. The Contractor shall complete all Punch List items within thirty (30) calendar days of Final Inspection or show just cause to the satisfaction of the Professional and the Department why they cannot be completed. If satisfactory just cause is not shown, the Department may proceed under Article 12.10 Department's Right To Carry Out The Work.
  2. The Department will make payment in full within 45 days of the submission of the accepted final application except as set out in this Article, less one and one-half times the amount required to complete any then-remaining uncompleted minor items, which amount shall be certified by the Professional. Payment of any amount withheld for the completion of the Punch List shall be paid upon completion of the items in the Certificate.

## **ARTICLE 15: SUSPENSION**

- 15.1. **SUSPENSION OF WORK DUE TO UNFAVORABLE CONDITIONS OR WEATHER.** If, in the judgment of the Department, the Contractor takes undue risk of damage to any part of the Project, including, but not limited to, soil compaction, foundation excavation, concrete placement or any exterior building construction by proceeding with the Work during unfavorable weather or other conditions (not relating to the fault of the Contractor or the convenience of the Department), the Department may issue a notice of a temporary suspension of the Work for either the whole Contract or any part of the Contract, for such temporary period as the Department deems necessary. If the temporary suspension is due to unfavorable weather, the suspension may span the time period (days, weeks or months) encompassed by the unfavorable weather. In case of such suspension under this paragraph, a proper Extension of Time will be allowed for this excusable, non-compensatory delay, and the Contractor may not submit any claim for any expense or damages resulting from the suspension. The failure of the Department to suspend the Work does not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents.
- 15.2. **SUSPENSION OF WORK DUE TO FAULT OF CONTRACTOR.** If the Contractor fails to comply with the orders of the Department, the Professional or the Construction Manager relative to any particular parts of the Work, the Department may issue a notice of a temporary suspension of the Work for either the whole Contract or any part of the Contract until the orders respecting the particular parts are complied with by the Contractor. In case of this type of suspension, which shall be considered due to the fault of the Contractor, no Extension of Time shall be given and the Contractor may not submit any claim for any expenses incurred by the Contractor during the suspension period. Further, the

Contractor may be liable for any and all damages incurred by other Prime Contractors due to the Contractor's actions.

- 15.3. **SUSPENSION OF WORK FOR THE CONVENIENCE OF THE DEPARTMENT.** The Department, may issue a notice of a temporary suspension of the Work for the convenience of the Department for either the whole Contract or any part of the Contract for such period of time as the Department may determine to be appropriate. This Paragraph does not apply to suspensions due to unfavorable weather or to suspensions due to Contractor's fault.
- A. If the performance of all or any part of the Work is suspended by the Department, for an excessive period of time under this paragraph, an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by such excessive suspension. The Contract Sum shall be modified accordingly. The Department will not pay any costs under this paragraph to the extent:
1. Performance would have been concurrently suspended by any other cause, including weather, or the fault or negligence of the Contractor; or
  2. An equitable adjustment for the time period encompassed within the suspension has been provided for or excluded under any other provision of this Contract.
- B. No claim for damages allegedly incurred under this paragraph shall be submitted under the Dispute Resolution Article unless the claim, in an amount stated, is asserted within six months after the date of the Department's letter terminating the suspension.
- 15.4. **RESUMPTION OF WORK.** When the Department directs resumption of the Work under this Article, the Contractor shall resume full operations within ten (10) days after the date of the Department's letter terminating the suspension. The Department is not liable for any damages or anticipated profits on account of the Work being suspended, except as described in the Paragraph entitled Suspension of Work for Convenience of the Department. Suspensions of Work as outlined in this Article shall not automatically extend the Contract Completion Date. A request for an Extension of Time may be submitted by the Contractor, setting forth its reasons for the extension, which the Department will review in accordance with the Administrative Procedures governing Extensions of Time.

## **ARTICLE 16: TERMINATION OF CONTRACT**

- 16.1. **TERMINATION FOR THE CONVENIENCE OF THE DEPARTMENT.** The Department, may, at any time and for any reason, terminate this Contract. In such case, the Contractor shall be paid (and shall accept payment) for that portion of the entire Contract actually performed satisfactorily as of the date of termination. Termination costs shall not include any loss of anticipated profits. Disputes as to the sum payable to the Contractor shall be settled in accordance with the provisions of the Dispute Article of these General Conditions of the Contract.
- 16.2. **EFFECT OF TERMINATION FOR THE CONVENIENCE OF THE DEPARTMENT.** A termination for the convenience of the Department, shall be effective in the manner and at the time specified in such notice and shall be without prejudice to any claims which the Department may have against the Contractor. Upon receipt of such notice from the Department, the Contractor shall immediately discontinue all Work and the placing of all orders for materials and equipment, facilities and supplies in connection with the performance of this Contract. The Contractor shall promptly cancel all existing orders and terminate Work under all subcontracts so far as such orders and Work are chargeable to this Contract.

The Contractor shall take such measures for the protection of the property of the Department, as may be directed by the Department. Upon termination of this Contract, as provided by this paragraph, full and complete adjustment and payment of all amounts due the Contractor arising out of this Contract as determined by an audit conducted by or for the Department, as soon as practicable after such termination shall be made as follows:

- A. The Department shall reimburse the Contractor for all costs incurred to date of termination, including reasonable overhead and expense for plant, made in the performance of this Contract, less amounts previously paid.
- B. The Department shall also reimburse the Contractor for all costs to which the Contractor has been subjected or is legally liable due to the termination of this Contract, including reasonable costs related to cancellation of orders, termination of subcontracts, etc.
- C. The Department shall also reimburse the Contractor for the reasonable cost of providing protection of the property of the Department as directed by the termination letter.
- D. The sum total of the payments made under this paragraph shall not exceed the total amount of the Contract, less payment previously made.
- E. Title to all property accruing to the Department, by reason of the termination of this Contract shall immediately vest in the Department and the Contractor will execute and deliver all papers necessary to transfer title to the Department.
- F. Coincident with making final payment, the Contractor shall furnish the Department, with a final release as provided in the Contract.
- G. The Department shall be afforded full access to all books, correspondence, data and papers of the Contractor relating to this Contract in order to determine the amount due.

16.3. **CONTRACTOR'S DEFAULT.** If the Contractor:

- A. Persistently or repeatedly refuses or fails to supply sufficient properly skilled workmen or proper materials;
- B. Persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction over the Project;
- C. Fails to proceed as directed by the Department;
- D. Performs the Work unsuitably;
- E. Refuses or fails to remove materials or replace rejected or non-conforming Work;
- F. Discontinues the prosecution of the Work without approval of the Department; or
- G. Otherwise breaches any material provision of this Contract,

then the Department, may, without prejudice to any of its other rights or remedies, give the Contractor and its Surety notice that the Contractor has seven (7) days from the date of the Department's letter to cure the default. If the Contractor fails to cure the default

within the specified time, the Department may terminate the Contract between the Department and the Contractor and may take possession of the site and of all materials and equipment, which has been paid for by the Department as of the date of termination. The Department may finish the Work by whatever method the Department may deem expedient. Upon termination, the Contractor is not entitled to receive any further payment until the Work is finished, at which time the Contractor shall be paid any excess remaining, in accordance with the Unpaid Contract Balance Paragraph below. The discretion to declare the Contractor in default rests solely with the Department. No party, whether bound by Contract to the Department or attempting to raise a third party relationship, which this Contract specifically precludes, may state a cause of action against the Department alleging the failure of the Department to exercise its discretion to terminate the Contractor.

- 16.4. **UNPAID CONTRACT BALANCE.** If after the Department defaults/terminates the Contractor, the unpaid balance of the Contract sum exceeds the cost of finishing the Work, including compensation for any Construction Manager's or Professional's Additional Services and any other damages that the Department has incurred in accordance with the Contract, such excess shall be paid to the Surety. If such costs exceed the unpaid balance, the Contractor or the surety or both shall pay the difference to the Department.
- 16.5. **SURETY REPLACEMENT OF CONTRACTOR.** If the Department defaults/terminates the Contractor, the surety will have thirty (30) days from the date of the termination letter to replace the terminated Contractor with a Completion Contractor that is acceptable to the Department. Any delay or other claims attributable to the termination of the Contractor by other prime contractors will be the responsibility of the Surety to pay.
- 16.6. **SURETY'S FAILURE TO PROVIDE REPLACEMENT CONTRACTOR.** If the surety fails to provide an acceptable Contractor within thirty (30) days from the date of the termination letter, the Department may contract with a Contractor to complete the Work in accordance with the Contract Documents.
- 16.7. **DEPARTMENT'S RIGHT OF RECOVERY.** The Department will hold the Surety responsible for any additional cost incurred by the Department as a result of the Contractor's termination, including but not limited to, delay cost, acceleration cost, direct cost and consequential and incidental cost incurred by the Department or any other Prime Contractor.

## **ARTICLE 17: DISPUTES**

- 17.1. **CONTRACTOR MUST CARRY ON WORK DURING THE DISPUTE PROCESS.** The Contractor may note that they are performing the Work under protest and may keep records of costs during the dispute resolution process but the Contractor shall not refuse to perform as directed by the Department. The Contractor must maintain the Project Schedule unless otherwise agreed to by the Department. If the Contractor fails or refuses to perform as directed, this action will constitute a breach of contract and the Department may default the Contractor and/or proceed to suspend and/or debar the Contractor.
- 17.2. **CONTRACTOR REQUEST FOR DEPARTMENT TO WITHHOLD FUNDS DUE TO DAMAGE BY OTHER CONTRACTOR(S).** With regard to any Work performed on the Project:
- A. If the Contractor, either itself or by its Subcontractor or Sub-subcontractors causes damage or injury to the property or Work of any Prime Contractor or Prime Contractors, or by failing to perform its Work (including Work of its Subcontractor or sub-subcontractors) with due diligence, delays any Prime Contractor or Prime Contractors, who suffer additional expense or damage as a result, the Department may, upon the receipt of a request from the Prime Contractor who has suffered

additional expense or damage, withhold from the Contractor sufficient funds to cover the damages which have been incurred by the other Prime Contractor in accordance with these General Conditions of the Contract.

- B. If the Department determines that the Prime Contractor submitting the claim is entitled to payment, the Department will process a credit change order for the amount of the damages due to the other Prime Contractor, and the Department will process a credit change order to the other Prime Contractor in that amount.
- C. If the Contractor disputes the amount of the damages or that it is responsible for them, the Contractor may present the issue to the dispute resolution process commencing with a FDR Meeting described in this Article.
- D. It is agreed by all parties that disputes or actions between Prime Contractors concerning the additional expense or damage will not delay completion of the Work, which shall be continued by the parties, subject to the rights provided in these General Conditions.
- E. It is agreed by the parties to this Contract (the Department as promisee and the Contractor as promissor) that the intent of this Article is to benefit the other Prime Contractors on the Project or related projects and to serve as an indication of the mutual intent of the Department and the Contractor that this clause raise such other Prime Contractors to the status of intended third party beneficiaries of this Contract.

17.3. **ARBITRATION OF DISPUTES BETWEEN CONTRACTORS.** Contractors who have claims, disputes or other matters which arise out of, or are related to this Contract, or the breach which are between themselves and do not involve the Department may, at their option, submit such claims, disputes or other matters to arbitration, in accordance with the construction industry arbitration rules of the American Arbitration Association then in effect, unless the parties mutually agree otherwise. This agreement to arbitrate is in consideration of the fact that all other Prime Contractors agree to this same arbitration provision, as provided in each separate Prime Contract required for the construction of this project, and is specifically enforceable under the Prevailing Arbitration Law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

- A. Notice of the demand for arbitration shall be filed in writing with the other Prime Contractors and with the Philadelphia or Pittsburgh, Pennsylvania, Regional Office of the American Arbitration Association. A copy of the demand shall be provided to the Department. The demand for arbitration shall be made within a reasonable time after the claim; dispute or other matter in question has arisen. The Department shall not be a party to the claim, dispute or other matter in question, but will be a witness in any arbitration at the request of any party to the arbitration.
- B. If the Contractors choose to submit the claim to arbitration, the Department shall not be a party to this arbitration nor shall such claim or dispute be subject to a Board of Claims proceeding.

17.4. **DISPUTE RESOLUTION IS A 3-STEP PROCESS.** The Contractor and the Department agree that any and all disputes arising out of this Contract are subject to a 3-step resolution process described in this Article. The Contractor and the Department agree that participation in each preceding step is a condition precedent to the Contractor's right to pursue any and all unresolved disputes to the next step.

- 17.5. **STEP 1: FIELD DISPUTE REVIEW MEETING.** The Field Dispute Review Meeting is the initial step in identifying and attempting to reach a timely and equitable resolution of the variety of issues that arise on any construction project. The nature and structure of each Field Dispute Review Meeting shall be flexible and consist of an informal, good-faith discussion of the current status of the Project, and identification of potential and actual disputes.
- A. **PROJECT INTERVALS:** A Field Dispute Review Meeting (“FDR Meeting”) will be scheduled by the Department to discuss issues arising as of the following intervals of the Project:
1. 50% of the Contract Duration has elapsed; and
  2. 75% of the Contract Duration has elapsed; and
  3. 100% of the Contract Duration has elapsed; or
  4. At any time deemed necessary by the Department.
- B. **LOCATION:** The Department will schedule a mutually convenient date and time for each FDR Meeting. If possible, the FDR Meeting should be convened at the Project site.
- C. **ATTENDEES:** All Prime Contractors shall attend each Field Dispute Review Meeting. The Professional shall attend each Field Dispute Review Meeting. The Department shall also attend the Field Dispute Review Meeting. The Department’s Designated Representative will chair the Meeting.
- D. **PROCEDURE:** As the Project progresses and the time for a FDR Meeting approaches, the Department should establish the date for the meeting during the discussion at a Job Conference.
1. The Contractor must start the Field Dispute Review Process by notifying the Department in writing. This information submitted will be available to the Department representatives, the other Prime Contractors, and the Professional. The information should provide sufficient information to allow attendees to research potential disputes, review the Contract Documents, review the Project Schedule and examine site conditions prior to the Meeting. In all cases of misunderstanding and disputes, allegations that verbal instruction was given will not be considered. The Contractor must produce documentation in support of its contentions and shall advance no claim in the absence of such documentation or use or attempt to use any conversation with any parties against the Professional or the Department, or in prosecuting any claim against the Professional or the Department.
  2. The Department shall convene the Field Dispute Review Meeting and, if necessary, ensure that attendees are introduced to each other.
    - a. The FDR Meeting shall not be subject to 2 Pa. C.S. (relating to administrative law and procedure).
    - b. Neither audio recording nor videotaping will be allowed during the FDR Meeting.
    - c. No transcripts will be taken but attendees are free to take their own notes.
    - d. The Meeting may be moved out to the field for visual inspection of the condition if necessary to understand and resolve the issue.

- e. The Department will allow all parties a reasonable time to present and discuss the disputes raised in the Prime Contractors' FDR Meeting Forms.
3. The Contractor's representative (an employee in the field familiar with the day-to-day work on this Contract) shall present a description of:
  - a. The Work performed since the last Field Dispute Review Meeting; and
  - b. The Work to be performed in the near future; and
  - c. The status of disputes raised at the previous FDR Meeting; and
  - d. New disputes that have arisen since the previous FDR Meeting. For each new dispute:
    - i. Set forth the schedule impacts, which may only be presented using the current Project Schedule; and
    - ii. Set forth a proposed solution to the dispute, including:
      1. Days needed in any Extension of Time; and/or
      2. Damages attributed to the dispute; and
      3. Identify the party the Contractor believes is responsible for creating the dispute.
4. The Department's representative and/or another Prime Contractor if so identified in 3(d)(ii)(3) above shall present a description of:
  - a. their understanding of the Work performed since the last FDR Meetings; and
  - b. the Work to be performed in the near future; and
  - c. status of disputes raised at the previous FDR Meeting; and
  - d. a response to the new dispute(s) raised by the Contractor, including:
    - i. the Department's and/or the Contractor's view of the schedule impact, which may only be presented using the current Project Schedule; and
    - ii. the Department's and/or the Contractor's response to the original Contractor's proposed solution; and
    - iii. the identity of the party the Department and or the Contractor believes is responsible for creating the dispute.
5. Within two weeks of the FDR Meeting, the Department will render a decision on the issues raised during the FDR Meeting. The decision will be available to all attendees. The decision is not binding upon any party.
6. If any party is dissatisfied with the decision reached at the FDR Meeting, they may appeal the decision to the second step in the dispute process.
7. **Any issue or dispute arising on the Project must be presented at the first FDR Meeting after the dispute arose. If a Contractor fails to raise an issue at the appropriate FDR Meeting then the Contractor is deemed to have waived the issue (e.g., an issue arising during the first 50% of contract duration must be presented at the 50% FDR Meeting and may not be presented at any subsequent FDR Meeting).**
8. **Only claims raised during an FDR Meeting may be appealed to the Claim Settlement Conference stage.**

- 17.6. **STEP 2: CLAIM SETTLEMENT CONFERENCE.** The second step in the dispute resolution process is a Claim Settlement Conference, which is a more formal step in the process and is described in general in §1712.1 of the Commonwealth Procurement Code. To the extent that this language conflicts with §1712.1, the statutory language controls.
- A. **TIME TO FILE A CLAIM:** Under this second step of the process, a Contractor may appeal the FDR Meeting decision by submitting a written claim to the Deputy for Facilities and Engineering, Building 11-64, Fort Indiantown Gap, Annville, PA 17003.
1. **Any issue or dispute arising on the Project that is not mutually resolved at the FDR Meeting stage may only be appealed to the Claim Settlement Conference stage. If the Contractor fails to pursue any unresolved FDR Meeting issue to a Claim Settlement Conference within the 6-month time frame set forth below, then the Contractor is deemed to have waived the issue.**
  2. **A claim accrues upon the date of the Department's written decision in Step 1. If the Contractor decides to appeal the decision reached at the FDR Meeting, the Contractor must file an appeal of the decision to the Deputy for Facilities and Engineering within six months of the date of the Department's written decision. If the Contractor fails to file a written request within this time period, the Contractor is deemed to have waived its right to assert the claim in any forum. The Deputy for Facilities and Engineering will disregard untimely claims.**
- B. **CONTENTS OF THE CLAIM:** The claim filed by the Contractor with the Deputy for Facilities and Engineering shall state **all grounds** upon which the Contractor asserts a controversy exists. The claim must contain, at a minimum:
1. The documentation submitted by the Contractor to the Department during the FDR Meeting to substantiate the Contractor's view of the issue; and
  2. The Department's decision.
- C. **DATE OF THE CLAIM SETTLEMENT CONFERENCE:** The Deputy for Facilities and Engineering or a designee may schedule a mutually convenient date and time for the Claim Settlement Conference.
- D. **ATTENDEES:** All parties identified in the Claim Packet or deemed necessary by the Department shall attend the Claim Settlement Conference. At a minimum, the Contractor, the Professional, and a representative from Department's Bureau of Construction shall attend the Claim Settlement Conference.
- E. **PROCEDURE:** If the Deputy for Facilities and Engineering deems the Claim Settlement Conference is necessary, the Deputy for Facilities and Engineering or a designee will convene the Claim Settlement Conference.
1. The Claim Settlement Conference shall not be subject to 2 Pa. C.S. (relating to administrative law and procedure).
  2. Neither audio recording nor videotaping will be allowed during the Claim Settlement Conference.
  3. No transcripts will be taken but attendees are free to take their own notes.
  4. The Deputy for Facilities and Engineering or a designee will allow all parties a reasonable time to present and discuss the issues.



5. The Contractor's representative shall present a description of the issue, including:
  - a. the factual background of the issue;
  - b. the schedule impacts, which may only be presented using the current Project Schedule; and
  - c. the proposed solution to the dispute, including:
    - i. days needed in any Extension of Time; and/or
    - ii. damages attributed to the dispute; and
    - iii. identify the party the Contractor believes is responsible for creating the dispute.
6. The Department's representative (or other Prime Contractor if so identified in 5c(iii) above) shall present a description of:
  - a. a response to the dispute(s) raised by the Contractor, including:
    - i. the Department's and/or the Contractor's view of the schedule impact, which may only be presented using the current Project Schedule; and
    - ii. the Department's and/or the Contractor's response to the Contractor's proposed solution; and
    - iii. the identity of the party the Department and/or the Contractor believes is responsible for creating the dispute.
7. The Deputy for Facilities and Engineering may render a final determination on the contents of the Claim within 120 days of the receipt of the claim by the Deputy for Facilities and Engineering. The parties may, during the 120 day period, mutually agree to extend the 120-day deadline. The Department will confirm all agreements to extend the 120-day deadline in writing. If no decision is rendered within the 120 days of the receipt of the claim by the Deputy for Facilities and Engineering, and the Department has not confirmed in writing the parties agreement to extend the 120-day deadline, the claim is deemed to be denied on the 120<sup>th</sup> day. The determination of the Deputy for Facilities and Engineering shall be the final order of the Department with regard to the contents of the Claim.

17.7. **STEP 3: FILING A CLAIM AT THE BOARD OF CLAIMS.** The third step in the dispute resolution process is filing a Statement of Claim with the Board of Claims, which is a more formal step in the process and is described in general in §1712.1 and §1721 *et seq.* of the Commonwealth Procurement Code. To the extent that this language conflicts with §1712.1, the statutory language controls.

A. **TIME TO FILE A STATEMENT OF CLAIM.**

1. Within fifteen (15) days of the mailing date of the Deputy for Facilities and Engineering's final determination denying a claim; or
2. Within 135 days of the date the Contractor files a claim with the Deputy for Facilities and Engineering if no final determination has been rendered and no extension has been agreed to;

whichever occurs first, the Contractor may proceed to the third stage of the dispute resolution process by filing a claim with the Board of Claims in Harrisburg.

**Only claims that were raised during a Claim Settlement Conference may proceed to the Board of Claims.**

### **ARTICLE 18: COMMISSIONING**

- 18.1. **SCOPE OF WORK.** If deemed necessary by the Department during design, commissioning shall consist of the coordination of activities to verify that all building systems (mechanical, electrical, security, fire alarm, etc.) have been installed and are operating in accordance with the requirements specified in the Contract Documents. This scope shall also include approved installation, start-up training, testing and performance of all building equipment and systems.
- 18.2. **PROCEDURE.**
- A. The specifications contain the commissioning specifications for each Contract.
  - B. Within 30 days after the Initial Job Conference, the Department's Commissioning Agent will provide the Commissioning Plan to all Prime Contractors. This plan shall clarify in detail the schedule and responsibilities for Work to be completed during commissioning of the Project.
  - C. The schedule set forth in the Commissioning Plan shall then be integrated into the Project Schedule by the first monthly update,
  - D. Final commissioning will begin upon notice from any Prime Contractor to the Commissioning Agent (with a copy sent to the Department) that the system to be commissioned has been completed and is operational.
- 18.3. **PAYMENT FOR COMMISSIONING.**
- A. The HVAC (.2) Prime Contractor shall have a lump sum of 2% of the awarded contract value (or other percentage set forth by the Department in the specifications or during the bidding stage) retained as a distinct line item on the Schedule of Values for Final Commissioning. If applicable, other Prime Contractors' commissioning retainage shall be as indicated in the specification.
  - B. Progress payments can be submitted for systems that have been commissioned and approved by the Commissioning Agent. The total of these progress payments shall not exceed ½ of the total percentage retained for Final Commissioning.
  - C. Progress payments for commissioning shall be apportioned *pro rata* based on the scheduled values of the systems or equipment to be commissioned. All Applications for Payment that request release of any amount of the total percentage retainage for Final Commissioning must be submitted for review by the Commissioning Agent.
  - D. The remaining ½ of the total percentage for the Final Commissioning retainage is payable upon completion of seasonal testing results approved by the Commissioning Agent. Seasonal testing will span two seasons, to assure that commissioning addresses peak heating and cooling operation.

### **ARTICLE 19: MISCELLANEOUS CONDITIONS**

- 19.1. **PROJECT SIGN.** On or before the date of the first regularly scheduled Job Conference (after the Initial Job Conference), the Lead Contractor shall erect, at a prominent location (selected by the Department) a six-foot high by eight-foot wide (6'X 8') sign, well braced,

and supported by 4"X 4" posts, identifying the Project under construction. The sign board may be constructed from weatherproof plywood, hardboard, or other smooth face material that will weather and remain intact throughout the Project. A three-inch (3") wood border shall frame the sign. The sign shall be placed with the eight-foot (8') dimension horizontal. The base color of the sign shall be white weatherproof flat paint with red border. Lettering shall be in fast blue block letters and shall conform to the following:

COMMONWEALTH OF PENNSYLVANIA (4" LETTERS MIN.)  
THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS (4" LETTERS MIN.)

PROJECT NO. [number] (3" LETTERS MIN.)  
[building name] (4" LETTERS MIN.)  
[facility name] (3" LETTERS MIN.)

[name]...GENERAL CONTRACTOR (3" LETTERS MIN.)  
[name]...HEATING CONTRACTOR (3" LETTERS MIN.)  
[name].. PLUMBING CONTRACTOR (3" LETTERS MIN.)  
[name]... ELECTRICAL CONTRACTOR (3" LETTERS MIN.)

**NOTE:** For information shown in brackets Contractor shall check with the Department for proper data.

Upon Completion of the work, or when directed by the Department, the Lead Contractor shall remove the sign.

The Contractor shall change the names provided on the sign should the individual names change during the course of the project. This shall be done at no additional cost to the Department.

- 19.2. **FOUNDATIONS FOR MECHANICAL EQUIPMENT.** The HVAC, Plumbing and Electrical Contractors shall furnish and install foundations and supports for all equipment installed under their respective Contracts. Foundations and supports shall include isolation mounting for noisy and vibrating equipment. Each Contractor shall provide sufficient dowels or anchors in bases as required for equipment supplied under its Contract. Such foundations and supports shall not be those concrete slabs or that integral concrete construction noted and dimensioned on the architectural and structural drawings, which are considered the responsibility of the Contractor for General Construction.
- 19.3. **SANITARY FACILITIES.** The Lead Contractor shall, at its cost, provide and maintain in a clean and sanitary condition, adequate and approved sanitary facilities in accordance with O.S.H.A. requirements. All facilities shall be screened against insects. When directed by the Department, the Contractor shall dismantle and remove these facilities and disinfect as required. Portable chemical toilets approved by the Pennsylvania Department of Health are acceptable. Under temporary field conditions, provisions shall be made to assure not less than one toilet facility is available.
- 19.4. **SANITARY FACILITIES AFTER LINES INSTALLED.** As soon as soil lines and water lines have been installed inside the building and tested successfully by the Plumbing Contractor, the Plumbing Contractor shall, at its cost, install two (2) lavatories and sufficient number of toilets according to the following table:

NUMBER OF WORKERS	MINIMUM NUMBER OF FACILITIES
20 or Less Workers	1

21 or More Workers	1 toilet seat and 1 urinal per 40
200 or More Workers	1 toilet seat and 1 urinal per 50

These shall be kept in working order by the Plumbing Contractor and in a clean and sanitary condition by the Lead Contractor. All supplies for these facilities shall be provided and restocked by the Lead Contractor.

- 19.5. **HOISTING FACILITIES.** The Contractor for General Construction shall erect, maintain and operate at its cost, hoisting facilities. In the event the hoisting facilities provided by the General Contractor are not available or are unable to accommodate the needs of other Prime Contractors, each Prime Contractor must provide hoisting facilities for its own work. All hoisting facilities must comply with the safety regulations of the Department of Labor and Industry.
- 19.6. **TEMPORARY VENTILATION.** The Contractor shall provide temporary ventilation to remove from the structure any excessive heat and/or humidity in enclosed portions of the Work, resulting from its construction operations so that the Work may be carried on without interruption and under correct conditions, including required dryness for installation of the various materials. Removing any dangerous or noxious fumes or particles suspended in the air is the responsibility of the Contractor whose construction operations caused these conditions to exist. Temporary equipment used for this temporary ventilation shall produce no hazard to the Work or to any person in or near it. The Contractor shall furnish all such temporary equipment; pay all costs for it and for its operation, including fuel and power supplies during operation both in and out of normal working hours. The Contractor shall remove the equipment when it is no longer required, or when so directed by the Department.
- 19.7. **WORK BEYOND LIMIT OF CONTRACT.** For purposes of performing the Work, the site is defined by the Limit of Contract lines shown on the drawings. The Contractor is responsible for any work performed beyond the limit of Contract.
- 19.8. **ADVERTISING.** No advertising is permitted within the Work area or adjacent area. This does not apply to corporate vehicles or attire.
- 19.9. **FEDERAL AND A.S.T.M. AND OTHER SPECIFICATIONS.** Reference to Federal, A.S.T.M. and other standard specifications, references and designations means those in effect at the date of bid. Basic codes and regulations incorporated by reference, standard regulations and codes refer to editions in effect at the date of proposals, including current addenda or errata. The most stringent section of each code applies.
- 19.10. **STORAGE AND STOCKPILING ON ROOFS.** No materials of any type may be stored or stockpiled overnight on roofs.
- 19.11. **AUDIT OF RECORDS.** The Department may, at reasonable times and places, audit the books and records of the Contractor. The Contractor shall maintain books and records related to the Contract for a period of three (3) years from the date of final payment. The Contractor shall include a requirement in contracts with subcontractors or suppliers that requires the Subcontractor or Supplier to maintain its records for the same length of time.
- 19.12. **TEMPORARY TRAFFIC CONTROL.** The Project site may have active pedestrian, bike or automobile traffic adjacent to site for the entire duration of the Project. If applicable, the Contractors shall incorporate, furnish and implement the following work as part of this Project.

- A. TRAFFIC CONTROL – TEMPORARY TRAFFIC CONTROL GUIDELINES (PENNDOT PUBLICATION 213): The needs and control of all road users (motorists, bicyclists, and pedestrians) within the highway, including persons with disabilities in accordance with the Americans with Disabilities Act of 1990 (ADA), Title II, Paragraph 35.130 and Temporary Traffic Control Guidelines (PennDOT Publication 213) through a Temporary Traffic Control (TTC) zone shall be an essential part of highway construction, utility work, maintenance operations, and the management of traffic incidents.

Publication 213 applies to Contractors; utilities; Federal, State, County, township and municipal governments; and others performing applicable construction, maintenance, emergency or utility/permit work on highways or so closely adjacent to a highway that workers, equipment or materials encroach on the highway or interfere with the normal movement of traffic.

- 19.13. **REDUCTION OF NOISE**. The Contractor must take reasonable steps to minimize noise and shall perform work in accordance with local noise ordinances. The Contractor shall perform noise-producing work in less sensitive hours of the day or week as directed by the Department. The Contractor shall maintain noise-producing work at or below the decibel levels and within the time periods specified and shall perform construction activities involving repetitive, high-level impact noise only between 8:00 a.m. and 6:00 p.m. unless otherwise permitted by the Department and permissible by local ordinance.
- 19.14. **VISIBLE DUST EMISSIONS**. No person shall perform any construction, demolition, excavation, extraction, or other earthmoving activities unless appropriate measures are sufficiently implemented to limit Visible Dust Emissions (VDE) to 20% opacity and comply with the conditions for a stabilized surface area when applicable. The Contractor shall apply sufficient water to building exterior surfaces, and/or unpaved surface areas where equipment will operate to limit VDE to 20% opacity throughout the duration of razing and demolition activities or handling, storage, and transport of bulk materials on-site or off-site. The Contractor shall apply sufficient dust suppressants to unpaved surface areas within 100 feet where materials from razing or demolition activities will fall in order to limit VDE to 20% opacity. The Contractor shall also apply sufficient dust suppressants to unpaved surface areas where wrecking or hauling equipment will be operated in order to limit VDE to 20% opacity.

## **ARTICLE 20: LEGAL MATTERS**

- 20.1 **NO ESTOPPEL OR WAIVER OF LEGAL RIGHTS**. Neither the Department, its designee nor the Professional is precluded or estopped by the measurements or approved Applications for Payment made or given by the Department or the Professional or by any of their agents or employees, from showing the true and correct amount and character of the Work performed and materials and equipment furnished by the Contractor. The Department may show, at any time, that any such measurements or approved Applications for Payment are untrue or incorrectly made in any particular, or that the Work or materials, equipment or any parts thereof do not conform to the specifications and the Contract. The Department may reject the whole or any part of the aforesaid Work or materials and equipment if the measurements or approved Applications for Payment are found or become known to be inconsistent with the terms of the Contract, or otherwise improperly given. The Department may, notwithstanding any such measurements or approved Applications for Payment, demand and recover from the Contractor, its surety, or both, such damages as the Department may sustain by reason of the Contractor's failure to comply with the terms of the specifications and the Contract, or on account of any overpayments made on any approved Applications for Payment. Neither the acceptance by the Department or the Professional or any of their agents or employees, nor any

certificate approved for payment of money, nor any payments for, nor acceptance of the whole or any part of the Work by the Department or the Professional, nor any Extension of Time, nor any position taken by the Department or the Professional or its employees, operates as a waiver of any portion of the Contract or any power herein reserved by the Department or any right to damages. A waiver of any breach of the Contract will not be held to be a waiver of any other or subsequent breach.

- 20.2** **LAW OF THE PLACE.** The Contract shall be governed by the Laws of the Commonwealth of Pennsylvania.
- 20.3** **SUCCESSORS AND ASSIGNS.** This Contract shall be binding on the parties hereto, their heirs, executors, administrators, successors and assigns. **No part of this Contract may be assigned by the Contractor without the prior consent of the Department.**
- 20.4** **CLAIMS FOR DAMAGES: LEGAL RELATIONS AND RESPONSIBILITIES.** Contracts covered by these General Conditions are not to be construed as being made for the benefit of any person or political subdivision not a party to this Contract, nor shall this Contract be construed to authorize any person or political subdivision, not a party to this Contract, to maintain any lawsuit hereunder, nor shall this Contract be construed to constitute the basis for the maintenance of any lawsuit by any person, or political subdivision not a party hereto.
- 20.5** **ROYALTIES AND PATENTS.** The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall hold the Department harmless from loss on account thereof.
- 20.6** **PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT.** Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Act 58 of 1997, as amended), all employers are required to report information on newly-hired employees to a designated state agency. The Commonwealth of Pennsylvania has designated the Department of Labor and Industry as that agency. For information concerning this requirement call 1-888-PAHIRE.S.
- 20.7** **Public Works Employment Verification Act.** If applicable to this Contract, the Contractor is hereby notified that this contract is for a public work and the Contractor is therefore subject to the provisions, duties, obligations, remedies and penalties of the Public Works Employment Verification Act, 43 P.S. §§167.1-167.11, which is incorporated herein by reference as if fully set forth herein. Contractors subject to said Public Works Employment Verification Act are required to utilize the Federal E-Verify program to verify the employment eligibility of each new employee hired after January 1, 2013 and to submit to the Department a Commonwealth Public Works Employment Verification Form available on the Department's web site at [www.dgs.state.pa.gov](http://www.dgs.state.pa.gov).
- 20.8** **Steel Products Procurement Act.** The Contractor is hereby notified that this contract is for a public work and the Contractor is therefore subject to the provisions, duties, obligations, remedies and penalties of the Steel Product Procurement Act, 73 P.S. §§1881-1887, as amended, which is incorporated herein by reference as if fully set forth herein. The Contractor must refer to the Department's web site at [www.dgs.pa.gov](http://www.dgs.pa.gov) for information regarding the Steel Products Procurement Act and the current list of exempt machinery and equipment steel products.
- 20.9** **PREVAILING MINIMUM WAGE PREDETERMINATION.** If applicable to this Contract, the Contractor is hereby notified that this Contract is subject to the provisions, duties, obligations, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. §165-1 et seq., as amended, which is incorporated herein by reference as if fully set forth herein. In compliance with said Pennsylvania Prevailing Wage Act, the Prevailing

Minimum Wage Predetermination is hereto attached and made part hereof as approved by the Secretary of Labor and Industry. If a job classification is not covered by the Prevailing Wage Predetermination, the Contractor may not pay individuals in that classification less than the lowest rate for laborers, as set out in the predetermination.

**20.10 TOBACCO USE ON PROJECT SITE.** Use of tobacco products (smoke and smokeless) shall be restricted on site after the building has been enclosed (with permanent or temporary enclosures). Personnel found in noncompliance with this directive may be removed from the site upon discovery of this noncompliance.

**20.11 RIGHT-TO-KNOW LAW.**

A. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.

B. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

C. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

D. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

E. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.

F. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth

may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

G. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

H. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

I. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

**20.12 Non-Appropriation Clause.** The Commonwealth's obligations to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid for any appropriations available for that purpose.

**20.13 COMPLIANCE WITH LAW.** The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

**20.14 CONTRACTOR RESPONSIBILITY PROVISIONS.**

A. For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify,



then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717) 783-6472  
FAX No: (717) 787-9138

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF MILITARY AND  
VETERANS AFFAIRS (08/2019)**

**Bond No.** \_\_\_\_\_

**CONSTRUCTION BID BOND  
(Please Complete All Blanks)**

KNOW ALL MEN BY PRESENTS, that we, \_\_\_\_\_

\_\_\_\_\_

(hereinafter called the "Principal") as Principal and \_\_\_\_\_

\_\_\_\_\_

a corporation duly organized under the laws of the State of \_\_\_\_\_  
(hereinafter called the "Surety") as Surety, are held and firmly bound unto The Department of Military and Veterans  
Affairs, Annville, Pennsylvania (hereinafter called the "Obligee"), in the sum of **Ten (10) Percent of the amount of the  
highest base bid**

for the payment of which sum, well and truly to be made, we, the said Principal, and the said Surety, bind ourselves,  
our heirs, our administrators, successors, and assigns, jointly and severally firmly by these presents.

Sealed with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_ A.D.

Two thousand and \_\_\_\_\_.

WHEREAS the Principal has submitted a bid upon Contract No. \_\_\_\_\_

for \_\_\_\_\_

\_\_\_\_\_

NOW, THEREFORE, the conditions of these obligations are such that if the Principal shall not withdraw its bid prior to the  
expiration of the award period after the opening of the bids; and shall comply with all requirements set forth in the  
"Proposal" and the "Instructions to Bidders;" and if the said contract be awarded to the Principal and the Principal shall,  
within such time as may be specified, enter into the contract in writing, and give bond, with Surety acceptable to the Obligee,  
covering the faithful performance of the said contract and payment of claims for labor, material, and equipment rental, all of  
which shall be supplied on the forms as specified by said Obligee; or if the Principal shall fail to do so, pay to the Obligee the  
lesser of the following amounts: 1) the amount of this bond as herein above set forth, or 2) the difference between the  
amount specified in the Principals bid and such larger amount for which the Obligee may in good faith contract with another  
party to perform the work covered by said bid, then this obligation shall be void; otherwise to remain in full force and effect.

WITNESS (OR ATTEST IF A CORPORATION)

PRINCIPAL

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CORPORATE SEAL

SURETY

\_\_\_\_\_

\_\_\_\_\_

## INSTRUCTIONS FOR CONSTRUCTION BID BOND

- (1) If Bid Bond is submitted, it must be submitted on this Construction Bid Bond form without alteration. If the principal is a corporation, the President or Vice President and Secretary or Treasurer of the corporation should sign; if a partnership, the partners should sign; if an individual, the individual should sign.
- (2) The Bid Bond must be from a surety approved by the Commonwealth's Department of Insurance to do business in Pennsylvania. For information on approved sureties, contact the PA Department of Insurance, Division of Companies, at (717) 787-5890 or go to [www.ins.state.pa.us](http://www.ins.state.pa.us)
- (3) The Surety must sign the Bid Bond. The Surety must attach to the Bid Bond a Power-of-Attorney, which must be dated the same date as the Bid Bond, showing that the person signing the Bid Bond for the Surety has authority to do so.
- (4) Any alterations to the pre-printed portions of the bid bond (e.g., erasures, write-ins, white outs, etc.) are prohibited and will be rejected as not responsive. Any alterations to the filled in spaces/lines on the Bid Bond (e.g., erasures, write-ins, white outs, etc.), are not acceptable, unless initialed by an authorized representative of the surety, preferably the agent signing the bond. Such unauthorized alterations will result in the bid being rejected as not responsive.
- (5) All signatures by the Surety on the Bid Bond must be original and hand-scripted. Faxed or copied signatures are unacceptable.

## LOBBYING CERTIFICATION FORM

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, 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 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 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 of Lobbying Activities, which can be found at:

<http://www.whitehouse.gov/sites/default/files/omb/assets/omb/grants/sflllin.pdf>

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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 under *Section 1352, Title 31, U. S. Code*. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than **\$100,000** for such failure.

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

## RECIPROCAL LIMITATIONS ACT REQUIREMENTS

Please Complete Applicable Portion of Pages 3 & 4 and Return with Bid.

**NOTE:** These Requirements Do Not Apply To Bids Under \$10,000.00

### I. REQUIREMENTS

**A.** The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering supplies produced, manufactured, mined or grown in Pennsylvania as against those bidders offering supplies produced, manufactured, mined or grown in any state that gives or requires a preference to supplies produced, manufactured, mined or grown in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular supply.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state supplies and the amount of the preference:

STATE	PREFERENCE
1. Alaska	7% (applies only to timber, lumber, and manufactured lumber products originating in the state)
2. Arizona	5% (construction materials produced or manufactured in the state only)
3. Hawaii	10%
4. Illinois	10% for coal only
5. Iowa	5% for coal only
6. Louisiana	4% meat and meat products
	4% catfish
	10% milk & dairy products
	10% steel rolled in Louisiana
	7% all other products
7. Montana	5% for residents *
	3% for non-residents*
	*offering in-state goods, supplies, equipment and materials
8. New Mexico	5%
9. New York	3% for purchase of food only
10. Oklahoma	5%
11. Virginia	4% for coal only
12. Washington	5% (fuels mined or produced in the state only)
13. Wyoming	5%

**B.** The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering printing performed in Pennsylvania as against those bidders offering printing performed in any state that gives or requires a preference to printing performed in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular category of printing.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state printing and the amount of the preference:

STATE	PREFERENCE
1. Hawaii	15%
2. Idaho	10%
3. Louisiana	3%
4. Montana	8%
5. New Mexico	5%
6. Wyoming	10%

**C.** The Reciprocal Limitations Act, also requires the Commonwealth to give resident bidders a preference against a nonresident bidder from any state that gives or requires a preference to bidders from that state or exclude bidders from states that exclude nonresident bidders. The amount of the preference shall be equal to the amount of the preference applied by the state of the nonresident bidder. The following is a list of the states which have been found by the Department of General Services to have applied a preference for in-state bidders and the amount of the preference:

STATE	PREFERENCE
1. Alaska	5%(supplies only)
2. Arizona	5%(construction materials from Arizona resident dealers only)
3. California	5%(for supply contracts only in excess of \$100,000.00)

- |                   |   |
|-------------------|---|
| 4. Connecticut    | 10%(for supplies only)  |
| 5. Montana        | 3%  |
| 6. New Mexico     | 5%(for supplies only)   |
| 7. South Carolina | 2%(under \$2,500,000.00)<br>1%(over \$2,500,000.00)   |
|                   | This preference does not apply to construction contracts nor where the price of a single unit exceeds \$10,000. |
| 8. West Virginia  | 2.5%(for the construction, repair or improvement of any buildings   |
| 9. Wyoming        | 5%  |

**STATE PROHIBITION**

- |               |  |
|---------------|--|
| 1. New Jersey | For supply procurements or construction projects restricted to Department of General Services Certified Small Businesses, New Jersey bidders shall be excluded from award even if they themselves are Department of General Services Certified Small Businesses. |
|---------------|--|

D. The Reciprocal Limitations Act also requires the Commonwealth not to specify, use or purchase supplies which are produced, manufactured, mined or grown in any state that prohibits the specification for, use, or purchase of such items in or on its public buildings or other works, when such items are not produced, manufactured, mined or grown in such state. The following is a list of the states which have been found by the Department of General Services to have prohibited the use of out-of-state supplies:

**STATE PROHIBITION**

- |                 |  |
|-----------------|--|
| 1. Alabama      | Only for printing and binding involving "messages of the Governor to the Legislature", all bills, documents and reports ordered by and for the use of the Legislature or either house thereof while in session; all blanks, circulars, notices and forms used in the office of or ordered by the Governor, or by any state official, board, commission, bureau or department, or by the clerks of the supreme court . . . /and other appellate courts/; and all blanks and forms ordered by and for the use of the Senate and Clerk or the House of Representatives, and binding the original records and opinions of the Supreme Court . . . /and other appellate courts/ |
| 2. Georgia      | Forest products only   |
| 3. Indiana      | Coal   |
| 4. Michigan     | Printing   |
| 5. New Mexico   | Construction   |
| 6. Ohio         | Only for House and Senate bills, general and local laws, and joint resolutions; the journals and bulletins of the Senate and house of Representatives and reports, communications, and other documents which form part of the journals; reports, communications, and other documents ordered by the General Assembly, or either House, or by the executive department or elective state officers; blanks, circulars, and other work for the use of the executive departments, and elective state officers; and opinions of the Attorney General.   |
| 7. Rhode Island | Only for food for state institutions.  |

\*If the bid discloses that the bidder is offering to supply one of the above-listed products that is manufactured, mined, or grown in the listed state, it shall be rejected. Contractors are prohibited from supplying these items from these states.

**II. CALCULATION OF PREFERENCE**

In calculating the preference, the amount of a bid submitted by a Pennsylvania bidder shall be reduced by the percentage preference which would be given to a nonresident bidder by its state of residency (as found by the Department of General Services in Paragraph C above). Similarly, the amount of a bid offering Pennsylvania goods, supplies, equipment or materials shall be reduced by the percentage preference which would be given to another bidder by the state where the goods, supplies, equipment or materials are produced, manufactured, mined or grown (as found by the Department of General Services in Paragraphs A and B above).

THIS FORM MUST BE COMPLETED AND RETURNED WITH THE BID

**III. STATE OF MANUFACTURE**

All bidders must complete the following chart by listing the name of the manufacturer and the state (or foreign country) of manufacture for each item. If the item is domestically produced, the bidder must indicate the state in the United States where the item will be manufactured. **This chart must be completed and submitted with the bid or no later than two (2) business days after notification from the Issuing Office to furnish the information. Failure to complete this chart and provide the required information prior to the expiration of the second business day after notification shall result in the rejection of the bid.**

ITEM NUMBER	NAME OF MANUFACTURER	STATE (OR FOREIGN COUNTRY) OF MANUFACTURE

**IV. BIDDER'S RESIDENCY**

A. In determining whether the bidder is a nonresident bidder from a state that gives or requires a preference to bidders from that state, the address given on the first page of this invitation to bid shall be used by the Commonwealth. If that address is incorrect, or if no address is given, the correct address should be provided in the space below:

Correct Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. In order to claim the preference provided under Section I.B., Pennsylvania resident bidders must complete the following or have such information on file with the Issuing Office:

1. Address of bidder's bona fide establishment in Pennsylvania at which it was transacting business on the date when bids for this contract/requisition were first solicited: \_\_\_\_\_

2. a. If the bidder is a corporation:

(1) The corporation  is or  is not incorporated under the laws of the Commonwealth of Pennsylvania.

(a) If the bidder is incorporated under the laws of the Commonwealth of Pennsylvania, provide date of incorporation:  
\_\_\_\_\_

(b) If the bidder is not incorporated under the laws of the Commonwealth of Pennsylvania, it must have a certificate of authority to do business in the Commonwealth of Pennsylvania from the Pennsylvania Department of State as required by the Pennsylvania Business Corporation Law (15 P.S. §2001). Provide date of issuance of certificate of authority:  
\_\_\_\_\_

(2) The corporation  is or  is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must register the fictitious name with the Secretary of the Commonwealth and the office of the prothonotary of the county wherein the registered office of such corporation is located as required by the Fictitious Corporate Name Act, as amended 15 P.S. §51 et seq. Corporate bidders conducting business under an assumed or fictitious name must provide date of registry of the assumed or fictitious name:  
\_\_\_\_\_

b. If the bidder is a partnership:

(1) The partnership  is or  is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must file with the Secretary of the Commonwealth and the office of the prothonotary the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended 54 P.S. §28.1. Partnerships conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: \_\_\_\_\_

(2) The partnership  is or  is not a limited partnership formed under the laws of any jurisdiction other than the Commonwealth of Pennsylvania. If the bidder is an Out-of-state limited partnership, it must register with the Pennsylvania Department of State as required by the Act of July 10, 1981, P.L. 237, as amended, 59 Pa. C.S.A. §503. Out-of-state limited partnerships must provide the date of registry with the Pennsylvania Department of State: \_\_\_\_\_

c. If the bidder is an individual:

He or she  is or  is not conducting business under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, he or she must file with the Secretary of the Commonwealth and the office of the prothonotary in the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended, 54 P.S. §28.1. Individuals conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: \_\_\_\_\_



Commonwealth of Pennsylvania Department of Military and Veterans Affairs Fort Indiantown Gap Annville, PA. 17003-5002	<b>Request for Extension of Time Change Order</b>	Project No. _____ Contract No. _____ Project Title _____ _____ Date: _____		
		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:60%; text-align: center;">For DGS (Region) Use Only</td> <td style="width:40%; text-align: center;">Request No.</td> </tr> </table>	For DGS (Region) Use Only	Request No.
For DGS (Region) Use Only	Request No.			

Contractor	Name & Address
------------	----------------

Beginning Date of Delay -	Ending Date of Delay -	Number of Days -
What Caused the Delay?		

How Did This Stop/Slow Construction Progress?

What Items of Work (From GSC-35 Progress Schedule) Were Affected By This Delay?

Were There Other Work Items That Could Have Been Done During The Delay?

I attest that the above facts are true and correct and that I am authorized to make this request on behalf of the contractor.  
 This request is made pursuant to the General Conditions of the Contract and is without prejudice to the Contractor's rights under the General Conditions.  
 It is understood that a grant of an extension of time by the Department is not an admission by the Department that it caused the delays incurred by the Contractor, nor that it is responsible for any costs incurred by the Contractor as a result of the delay. It is also further understood that the Extension of Time Request will not be introduced into evidence by either party to prove responsibility for any delays in the event that a claim related to the extension of time results in litigation.

For Regional Office Use Only	
Date Received _____	Signature – Contractor
Date Acknowledged _____	
Date Sent to Prof./Hbg. _____	

Regional Director's Recommendation	Number of Days Recommended -
Comments:	
_____ Signature Date	
Professional's Recommendation	Number of Days Recommended -
Comments:	
_____ Signature Date	
Legal Counsel Recommendation	Number of Days Recommended -
Comments	
_____ Signature Date	
For Bureau of Construction – Administrative Unit Use Only	
Received from Professional/Region ___/___/___	Letter to Contractor ___/___/___
Director of Construction – No. of Days Recommended – _____	Number of Days Approved - _____
_____ Signature Date	_____ Deputy Secretary for Public Works Date

**PAYROLL**

(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm))



Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1235-0008  
Expires: 04/30/2021

NAME OF CONTRACTOR	OR SUBCONTRACTOR	ADDRESS
--------------------	------------------	---------

PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	PROJECT OR CONTRACT NO.
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(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

**Public Burden Statement**

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Date \_\_\_\_\_

I, \_\_\_\_\_  
 (Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

\_\_\_\_\_ on the  
 (Contractor or Subcontractor)

\_\_\_\_\_;  
 (Building or Work)

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

\_\_\_\_\_ from the full  
 (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.



**STORED MATERIALS**

Commonwealth of Pennsylvania  
 Department of Military and  
 Veterans Affairs  
 Fort Indiantown Gap  
 Annville, PA. 17003-5002

Project No: \_\_\_\_\_  
 Contract No: \_\_\_\_\_  
 Project Title: \_\_\_\_\_  
 \_\_\_\_\_  
 Location: \_\_\_\_\_  
 \_\_\_\_\_  
 Contractor: \_\_\_\_\_

Materials or equipment that have not yet been incorporated into the work may be delivered and suitably stored, at the site or some other location agreed upon by the Department. The materials or equipment listed below have been estimated at 100% of the cost and will be stored at \_\_\_\_\_. The Contractor shall secure the signature of its bonding company on all forms and shall also provide a Power of Attorney from the bonding company.

**SCHEDULE**

Quantity	Material/Equipment		Unit Wholesale Price	Extended Wholesale Price
				\$0.00
				\$0.00
				\$0.00
			Total	\$ 0.00

Surety \_\_\_\_\_  
**POWER of ATTORNEY MUST BE ATTACHED**

By: \_\_\_\_\_  
 Attorney-in-Fact

Date: \_\_\_\_\_

**BILL OF SALE**

The Contractor, \_\_\_\_\_, (will store/has stored) certain materials and /or equipment, herein called materials, (at the site of this project/at an approved warehouse/at bonded warehouse) and will be paid in accordance with the provisions of the General Conditions of Contract and Administrative Procedures.

In consideration of the sum of \$\_\_\_\_\_ paid to the Contractor by the Department of Military and Veterans Affairs, and, in compliance with the provisions of the Contract, and, with the intention to be legally bound, the Contractor does hereby grant, bargain, sell and deliver unto the Department of Military and Veterans Affairs, its successors and assigns, all and singular, the materials described in the schedule above. The Contractor agrees that:

- Contractor has good title to the materials, free and clear of all liens and encumbrances, and title is granted to the Department of General Services;
- The materials will be used only in the construction of the above referenced project, under the provisions of the Contract, and will not be diverted elsewhere without the prior written consent of the Department of Military and Veterans Affairs;
- The materials have been delivered to and are at the places approved for storage, and they are clearly marked and identified as the property of the Department of Military and Veterans Affairs and are stored in a safe and secure manner to protect from damage or loss;
- The Contractor will pay all expenses in connection with the sale, delivery, storage, protection and insurance of materials granted to the Department of Military and Veterans Affairs and will remain responsible for the materials, which will remain under its custody and control for all losses, regardless of exclusions in insurance policies required under this document. The Contractor has insured the materials against loss or damage by fire (with extended coverage), theft and burglary, with loss payable to the Department of Military and Veterans Affairs;

- 5. The Contractor agrees that the quantities of materials set forth represents the maximum quantities for which it may be entitled to payment under the provisions of the Contract;
- 6. The following information is included with this form: (1) An Application for Payment; (2) An invoice or photostatic copy of an invoice for materials stored; (3) Evidence of payment, or when payment has not been made, a letter on the Contractor's letterhead authorizing payment to be made jointly to the Contractor and the Supplier; (4) Photographs showing the stored materials and its location; (5) a fire and theft insurance policy rider for the stored materials.

Witness:

\_\_\_\_\_

By: \_\_\_\_\_(SEAL)

Principal-Individual

Witness:

\_\_\_\_\_

\_\_\_\_\_

Principal-Partnership

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

Attest:

\_\_\_\_\_

Secretary

\_\_\_\_\_

Principal-Corporation

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

President

<b>VERIFICATION</b>
---------------------

This document has been reviewed and the following is verified:

- 1. The description of the line items on the vendor's invoice is identical to the description on this form.
- 2. The vendor's invoice shows the "Unit Wholesale Price" and the "Extended Wholesale Price". It is permissible for the Contractor to add information to the vendor's invoice for the purpose of clarity. If Items that are being claimed for Stored Materials are intermingled with other items on a vendor's invoice, the claimed items have been highlighted or underlined.
- 3. The Contractor has identified each package, bundle, box, container or item of the materials. Identification is legible and securely attached and protected so it will not become erased. The Contractor is responsible for proper storage of the materials at the project site. The materials are stored off the ground and properly protected from the elements.
- 4. This form is being submitted with an Application for Invoice No. \_\_\_\_\_. In addition, the following documents are included with the with this form:
  - a. Vendor's Invoice
  - b. Photographs of material
  - c. Fire and theft insurance policy rider for materials
  - d. Evidence of payment (as provided in item 6 of the previous section)

\_\_\_\_\_

Contractor

\_\_\_\_\_

Project Manager

\_\_\_\_\_

Title

\_\_\_\_\_

Date

\_\_\_\_\_

Date

**REQUEST FOR INFORMATION**

**RFI#** \_\_\_\_\_

**Please type or print legibly**

**TO:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DATE:** \_\_\_\_\_  
**RE: CONTRACT NO.** \_\_\_\_\_

**TITLE:** \_\_\_\_\_  
**LOCATION:** \_\_\_\_\_

**FROM:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SUBJECT:** \_\_\_\_\_  
**SPEC.REF.** \_\_\_\_\_  
**DWG.REF.** \_\_\_\_\_

**PRIORITY:**     48 Hours  
                   Routine (10) Days

**INFORMATION REQUIRED:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Distribution:** DMVA Project Manager, DMVA FCMM

**REPLY**

Be sure to indicate on form whether change order is required. Answer RFI without delay.

**FROM:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ A response is appended to this RFI, since a more detailed explanation is required.

**Distribution: DMVA Project Manager**  
**DMVA FCMM**  
**K. Lloyd**  
**Contractor(s)**  
**Other:** \_\_\_\_\_

**Change will result in:**  
\_\_\_\_\_ **Credit Change Order**  
\_\_\_\_\_ **Debit Change Order**  
\_\_\_\_\_ **Field Order**  
\_\_\_\_\_ **No Change in Contract**





COMMONWEALTH OF PENNSYLVANIA

**PUBLIC WORKS EMPLOYMENT VERIFICATION FORM**

Date \_\_\_\_\_

Business or Organization Name (Employer) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Contractor      Subcontractor      (circle one)

Contracting Public Body \_\_\_\_\_

Contract/Project No \_\_\_\_\_

Project Description \_\_\_\_\_

Project Location \_\_\_\_\_

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, \_\_\_\_\_, authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

\_\_\_\_\_  
Authorized Representative Signature

## SITE VISITATION

Solicitation Number: 6100051042 - 193rd SOP  
Location: Simulator  
Middletown, PA.

---

**Company Name**

---

**Date**

---

**Authorized Company Representative**

---

**Date**

---

**DMVA Facility Representative**

---

**Title**

---

**Date**

SITE VISIT IS OPTIONAL  
AND WILL BE  
CONDUCTED ON

JULY15TH 2020 9:30AM

PLEASE CONTACT TINA REBUCK [TREBUCK@PA.GOV](mailto:TREBUCK@PA.GOV) TO CONFIRM  
ATTENDANCE AT THE SITE VISIT.

## **SMALL DIVERSE BUSINESS PARTICIPATION**

The Department has established one Minimum Participation Level (MPL) for the utilization of Disability-Owned Business Enterprise (DOBE), LGBT Business Enterprise (LGBTBE), Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Veteran Business Enterprise (VBE), and Service-Disabled Veteran Business Enterprise (SDVBE) (together referred to hereinafter as Small Diverse Businesses) subcontracts, suppliers, and manufacturers for this Project which is set forth in the Notice to Bidders. The Contractor's selected option (options are more fully described in the Instructions to Bidders and the Administrative Procedures) regarding the MPL for Small Diverse Businesses is:

- Opt-in - The Contractor shall meet or exceed the Project's MPL as of the date of the Close-out Inspection of the project.
- Good Faith Effort - The Contractor shall document its use of reasonable efforts to identify, solicit, and secure commitments with Small Diverse Businesses for all subcontracts and purchase orders greater than \$10,000 throughout the duration of the Project. DMVA reserves the right to request submission of this documentation at any time during the project.
- Not applicable – The Contract Sum amount does not exceed \$50,000.00; therefore, the Contractor is not required to make a selection.

---

Contractor's Signature

Date

**STANDARD CONSTRUCTION CONTRACT**  
**BETWEEN THE DEPARTMENT AND CONTRACTOR**

**CONTRACT NO.**  
**42200054**

This CONSTRUCTION CONTRACT ("Contract") is executed this \_\_\_\_ day of \_\_\_\_\_ 2020, by and between the Department of Military and Veterans Affairs, hereinafter called "Department" and [CONTRACTOR NAME], having its principle place of business located at [CONTRACTOR ADDRESS], [CONTRACTOR CITY], [CONTRACTOR STATE], [CONTRACTOR ZIP CODE], hereinafter called "Contractor".

NOW THEREFORE, the parties, hereto, in consideration of mutual promises herein contained, and intending to be legally bound hereby, covenant and agree as follows:

**ARTICLE 1 – THE CONTRACT DOCUMENTS**

THIS Contract consists of this Standard Construction Contract; the Notice to Bidders (if procured through competitive sealed bids); the Instructions to Bidders (if procured through competitive sealed bids); the Contractor's electronic Bid Submission (if procured through competitive sealed bids); the Notice to Proposers (if procured through competitive sealed proposals); the Request for Proposals (if procured through competitive sealed proposals); the Contractor's entire proposal (if procured through competitive sealed proposals); the Contract Bond; the General, Special and other Conditions of the Contract; the drawings of all Prime Contracts; the specifications of all Prime Contracts; all addenda issued prior to execution of the Standard Construction Contract; all change orders; all schedules; and the Administrative Procedures, collectively referred to hereinafter as the "Contract Documents." The Contract Documents are incorporated by reference as if fully set forth herein. To the extent that any of these documents are amended by statute, the statutory language will control.

## **ARTICLE 2 – THE WORK**

The Contractor shall perform all the Work required by the Contract Documents for the construction of Contract No. [PROJECT NUMBER], [PROJECT NAME], [PROJECT CITY], [PROJECT COUNTY], Pennsylvania hereinafter referred to as the “Work.”

## **ARTICLE 3 – PROFESSIONAL**

The Professional for this Project is:

LTC Charles Sacavage

## **ARTICLE 4 – TIME OF COMMENCEMENT AND COMPLETION**

The Contract duration of this Contract shall be 365 calendar days and the term of the Contract shall commence upon the date that the Initial Job Conference is held for the Project or by the date established by the Letter of Intent (if issued). The Contractor shall commence operations on site by no later than ten (10) days after the Initial Job Conference or by the date stated in the Letter of Intent (if issued) and shall complete all Work to the satisfaction and approval of the Department on or before the milestones established in the Project Schedule. The Department may extend the selected interim milestone dates or the completion date of the Contract for causes set forth in the General Conditions of the Construction Contract and, which, in fact, delay the completion of said Work.

## **ARTICLE 5 – CONTRACT SUM**

The Department will pay the Contractor for the performance of the Work, subject to additions and deductions by change order, as provided in the General Conditions of the Construction Contract, the sum of [CONTRACT AMOUNT], hereinafter called the “Contract Sum.” Payment will be made as set forth in the General Conditions of the Construction Contract. Deductions from or additions to this sum will be made as set forth in the General Conditions of the Construction Contract.

## **ARTICLE 6 – PROGRESS PAYMENTS and RETAINAGE**

The Contractor shall submit Applications for Payment to the Department. The Department will make progress payments from the Contract Sum to the Contractor, in accordance with the provisions of the Prompt Payment Schedules found in the Commonwealth

Procurement Code, 62 Pa. C.S. §3931-§3939, and the Administrative Procedures, both of which are incorporated herein by reference and made a part hereof as if those provisions were fully and at length herein recited, except that, where those provisions refer to the government agency, it is deemed to refer to the Department of General Services. The Department will retain a portion of the amount due to the Contractor to insure the proper performance of the Work by the Contractor in each Application for Payment, in accordance with the provisions of Retainage found in the Commonwealth Procurement Code, 62 Pa. C.S. §3921 and the General Conditions of the Construction Contract, both of which are incorporated herein by reference and made a part hereof as if those provisions were fully and at length herein recited, except that, where those provisions refer to the government agency, it is deemed to refer to the Department.

### **ARTICLE 7 – FINAL PAYMENT**

The Final Payment, constituting the entire unpaid balance of the Contract Sum, will be paid by the Department to the Contractor, in accordance with the provisions of the subchapter Substantial/Final Payment found in the Commonwealth Procurement Code, 62 Pa. C.S. §3941-§3942, the Administrative Procedures, and the General Conditions of the Construction Contract, all of which are incorporated herein by reference and made a part hereof as if those provisions were fully and at length herein recited, except that, where those provisions refer to the government agency, it is deemed to refer to the Department.

### **ARTICLE 8 – MISCELLANEOUS PROVISIONS**

- 8.1 TERMS DEFINED. The Contract terms are defined in the General Conditions of the Construction Contract.
- 8.2 CORRECTIVE WORK. In addition to any other guarantees or warranties, the Contractor shall, after acceptance of the Work performed under this Contract, remedy without cost to the Department, any such defect, provided said defects in the judgment of the Department, or its successors having jurisdiction in the premises, are caused by defective or inferior materials, equipment or workmanship. If the corrective work is not completed within thirty (30) days after notification by the Department to the Contractor, the Department may do the corrective work and submit those costs to the Surety Company for reimbursement.
- 8.3 BONDS. The Contract Bond(s) given by the Contractor, conditioned upon the faithful performance of the Contract and for the payment of labor, material, equipment rental and public utility service claims, are attached hereto and are made a part hereof.

- 8.4 SOVEREIGN IMMUNITY. Nothing in this Contract shall be deemed to waive or otherwise affect the sovereign immunity of the Commonwealth and its agencies, officers, and employees, or to subject any Commonwealth party to any liability not expressly authorized by law.
- 8.5 NO THIRD-PARTY BENEFICIARY. No third party acquires any rights against the Department under this Contract.
- 8.6 PRIVACY OF CONTRACT. There is no privity of contract between any other entity under contract with the Department and the Contractor, and the Contractor is not an intended third-party beneficiary of any other Department contract/agreement.
- 8.7 CHOICE OF LAW. The Contractor agrees to abide by and be bound by the Laws of Pennsylvania relating to and regulating the hours and conditions of employment.
- 8.8 BOND RIGHTS NOTIFICATION. Any claimant who has performed labor or furnished material in the prosecution of the Work has a right of action to recover the cost thereof from the Contractor and/or the surety on the Bond given to secure the payment as set forth in Section §903(d) of the Commonwealth Procurement Code, 62 Pa. C. S. §903(d). For those who do not have a contract directly with the Contractor, this right of action may not be exercised unless the Contractor receives written notification of the claim within ninety (90) days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which it claims payment. The Contractor shall include in all of its subcontracts AND supply contracts a provision requiring that its subcontractors and suppliers notify, in writing, their subcontractors and suppliers of this requirement. No third-party rights arise against the Department for any reason under this Section and the Contractor shall inform all of its subcontractors and suppliers in writing.
- 8.9 COMPLIANCE WITH LAW. The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

## **ARTICLE 9 – CONTRACT COMPLIANCE REGULATIONS**

All State and Federal Laws prohibiting discrimination in hiring or employment opportunities are made a part hereof. The Contract Documents list applicable statutory provisions which are incorporated by reference into this Contract as if set forth fully herein.

## **ARTICLE 10 – MERGER CLAUSE**

This Contract, when executed, approved and delivered, together with all the Contract Documents, shall constitute the entire agreement between the parties, and there are no other representations

or agreements, oral or written, except as expressly set forth in this Contract. This Contract may not be amended or modified by the parties except as provided in the Contract Documents.

**IN WITNESS WHEREOF**, the said Department of Military and Veterans Affairs and the Contractor have caused this contract to be executed the day and year above written.

\_\_\_\_\_  
Witness

**[CONTRACTOR NAME]**  
\_\_\_\_\_  
Principal – Individual

\_\_\_\_\_  
Contractor's Signature

COMMONWEALTH OF PENNSYLVANIA  
ACTING THROUGH THE DEPARTMENT  
OF MILITARY AND VETERANS AFFAIRS

\_\_\_\_\_  
Deputy for Office of Administration

APPROVED AS TO LEGALITY AND FORM:

To be obtained electronically  
Office of Chief Counsel, DMVA

To be obtained electronically  
Office of Attorney General

To be obtained electronically  
Office of General Counsel

I hereby certify that funds in the amount of **[CONTRACTOR AMOUNT]** are available under Appropriation Symbol.

To be obtained electronically  
Comptroller Operations



# CONTRACT BOND

KNOW ALL PERSONS BY THESE PRESENTS, That we the undersigned

[CONTRACTOR NAME]

[CONTRACTOR ADDRESS], [CONTRACTOR CITY], [CONTRACTOR STATE], [CONTRACTOR ZIP CODE]

as Principal (the Construction Contractor)

and

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ a

Corporation organized and existing under the Laws of the State of \_\_\_\_\_ and authorized to transact business in Pennsylvania,

as Surety

jointly and severally hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns to the Commonwealth of Pennsylvania, Department Military and Veterans Affairs ("Department"); as hereinafter set forth, in the full and just several sums of

(A) [CONTRACT AMOUNT] for faithful performance of the Construction Contract as designated in Paragraph "A" herein; and

(B) [CONTRACT AMOUNT] for payment of labor, material, equipment rental and public utility services as designated in Paragraph "B".

Sealed with our respective seals and dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**WHEREAS**, the above Principal has entered into a Contract with the Department of Military and Veterans Affairs dated the \_\_\_\_ day of \_\_\_\_\_, 2020, for [CONTRACT NUMBER] [PROJECT NUMBER], for the [PROJECT NAME], [PROJECT CITY], [PROJECT COUNTY], Pennsylvania.

upon certain terms and conditions in said Contract more particularly mentioned; and

**WHEREAS** the execution of this Contract Bond is one of the Department's conditions of award and contract execution by the Commonwealth.

**NOW, THEREFORE**, the joint and several conditions of this obligation are such:

A. That, if the above Principal, as Contractor, shall well and faithfully do and perform the things agreed by it to be done and performed according to the terms of said Contract and General Conditions, including the plans and specifications therein referred to and made part thereof, and such alterations as may be made in said plans and specifications as therein provided and which are hereby made part of this Bond the same as though they were fully set forth herein, and shall indemnify and save harmless the Department of Military and Veterans Affairs and all of its officers, agents and employees from any expense incurred through the failure of said Contractor to complete the Work as specified and for any damages growing out of the manner of performance of said Contract by said Contractor or its subcontractors, or its (or their) agents or servants, including, but not limited to, patent trademark and copyright infringements, then this part of this obligation shall be void; otherwise, it shall be and remain in full force and effect.

B. That, if the above Principal shall and will promptly pay or cause to be paid all sums of money, which may be due by the Principal or any of its Subcontractors to any person, co-partnership, association or corporation, for all material furnished and labor supplied or performed in the prosecution of the Work, whether or not the said material or labor entered into and become component parts of the Work or improvements contemplated, and for rental of equipment used, and services rendered by public utilities in, or in connection with, the prosecution of such Work, then this part of this obligation shall be void; otherwise, it shall be and remain in full force and effect.

C. It is further agreed that any alterations, which may be made in the terms of the Contract or in the Work to be done, or materials to be furnished, or labor to be supplied or performed, or equipment to be rented, or public utility services to be rendered, or the giving by the Department of Military and Veterans Affairs of any Extension of Time for the performance of the Contract, or the reduction of the retained percentage as permitted by the Contract, or any other forbearance on the part of either the Department of General Services or the Principal to the other, shall not in

any way release the Principal and the surety or sureties or either or any of them, their heirs, executors, administrators, successors or assigns, from their liability hereunder, notice to the surety or sureties of any such alterations, extension or forbearance being hereby waived.

D. The Principal and Surety hereby jointly and severally agree with the Department herein that every person, co-partnership, association or corporation which, whether as subcontractor or as a person otherwise entitled to the benefits of this Bond, has furnished material or supplied or performed labor or rented equipment used in the prosecution of the Work as above provided and any public utility, which has rendered services, in, or in connection with, the prosecution of such Work, and, which has not been paid in full therefore, may sue in assumpsit on this Bond in his, hers, their, or its name and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or its, and have execution thereon; provided, however, that the Department of General Services shall not be liable for the payment of any costs or expenses of such suit to a third party under any theory of law or equity.

E. Recovery by any persons, co-partnership, association or corporation hereunder is subject to the provisions of the Act of May 15, 1998, P.L. 358, No. 57, 62 Pa. C.S §§101-4509, as amended, said Act is incorporated herein and made a part hereof, as fully and completely as though its provisions were fully and at length herein recited, except that, where said Act refers to the Commonwealth of Pennsylvania or a Department thereof, it is deemed to refer to the Department of General Services.

[Signature Page Immediately Follows]

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

**IN WITNESS WHEREOF**, the said Principal and Surety have duly executed this Bond under seal the day and year above written.

\_\_\_\_\_  
Witness

**[CONTRACTOR NAME]**  
\_\_\_\_\_  
Principal – Individual

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Attorney-in-Fact

APPROVED AS TO LEGALITY AND FORM:

To be obtained electronically  
Office of Chief Counsel, DMVA

To be obtained electronically  
Office of Attorney General

To be obtained electronically  
Office of General Counsel

## Bureau of Diversity, Inclusion & Small Business Opportunities

### Instructions For Completion of SDBUR

The **SDBUR FORM** is comprised of 5 different Sections. **Section 1** captures both Contractor and Project specific information. **Section 2** captures **Subcontractor and Manufacturer** Small/Small Diverse Business Commitment information, **Section 3** captures **Stocking Supplier** Small/Small Diverse Business Commitment information, **Section 4** captures **Non-Stocking Supplier** Small/Small Diverse Business Commitment information, and **Section 5** captures **Summary** Small/Small Diverse Business Commitment and BDISBO information.

**Section 1 - Project and Contract Specific Data** - Input all required fields. **Once completed, please send to the Construction Resource account at RA-GSBDISBOCONST@pa.gov and copy Curtis Burwell at cburwell@pa.gov**

**Section 2 - Subcontractor & Manufacturer Commitments:** 100% of the subcontract amount is counted towards the SB/SDB MPL. 100% of the total cost of the materials or supplies purchased from the Small/Small Diverse Business manufacturers is counted towards the SB/SDB MPL.

- A** Enter Small/Small Diverse Business Company Name.
- B** Click on the cell where the Small/Small Diverse Business Type (M, W, V, S, D, G, etc.) must be entered. After clicking on the cell a "drop down" symbol will appear to the right of the cell. Click on the "drop down" symbol and scroll down to the Small/Small Diverse Business Type (M, W, V, S, D, G, etc.) describing the Small/Small Diverse Business being entered.
- C** Enter the Expiration Date of the Small/Small Diverse Business. This can be found on the Small/Small Diverse Business certificate or the the Small/Small Diverse Business online profile.
- D** Enter the \$ Value of the Small/Small Diverse Business Subcontract.
- E** Enter the Scope of Work being performed or the material manufactured.
- F** Click on the cell where the a Yes or No response must be entered regarding whether or not the Small/Small Diverse Business Subcontractor has agreed to self-perform 60% of the work with its own forces. After clicking on the cell a "drop down" symbol will appear to the right of the cell. Click on the "drop down" symbol and scroll down to select "Yes" if the Small/Small Diverse Business has agreed to Perform 60% of the work with their own forces and "No" if the Small/Small Diverse Business has not agreed to the 60% self-performance requirement. Not/No Small/Small Diverse Business Credit will be provided regarding No entries.
- G** Computed Per Formula. Credit Towards Project MPL based on \$ Value of the Subcontractor's/Manufacturer's Subcontract.
- H** Enter the total monies paid to the Small/Small Diverse Business in regards to the related reported Small/Small Diverse Business commitment.
- I** Computed Per Formula. Credit Towards Project MPL based on the ACTUAL PAYMENT TO DATE with respect to the Subcontractor's/Manufacturer's Subcontract presented in Column G.
- J** Computed Per Formula. Difference between the \$ Value of the Subcontractor's/Manufacturer's Subcontract presented in Column C and the \$ Value of the Total Payment to Date in Column G.

**Section 3 - Stocking Supplier Commitments:** 60% of the total cost of the materials or supplies purchased from a Small/Small Diverse Business stocking supplier is counted towards the SB/SDB MPL.

- A** Enter Small/Small Diverse Business Company Name.
- B** Click on the cell where the Small/Small Diverse Business Type (M, W, V, S, D, G, etc.) must be entered. After clicking on the cell a "drop down" symbol will appear to the right of the cell. Click on the "drop down" symbol and scroll down to the Small/Small Diverse Business Type (M, W, V, S, D, G, etc.) describing the Small/Small Diverse Business being entered.
- C** Enter the Expiration Date of the Small/Small Diverse Business. This can be found on the Small/Small Diverse Business certificate or the the Small/Small Diverse Business online profile.
- D** Click on the cell entitled "General or MEP." After clicking on the cell a "drop down" symbol will appear to the right of the cell. Click on the "drop down" symbol and scroll down to "General" if the stocked material being provided relates to General Construction items or scroll to "MEP" if the stocked material being provided relates to Mechanical, Electrical and/or HVAC Construction items.
- E** Enter a description of the materials, supplies, and/or equipment being provided.
- F** Enter the \$ Value of the Small/Small Diverse Business Purchase Order.
- G** Computed Per Formula. Credit Towards Project MPL based on \$ Value of the Stocking Supplier Purchase Order.
- H** Enter the total monies paid to the Small/Small Diverse Business in regards to the related reported Small/Small Diverse Business commitment.
- I** Computed Per Formula. Credit Towards Project MPL based on the ACTUAL PAYMENT TO DATE with respect to the Small/Small Diverse Business Purchase Order presented in Column E.
- J** Computed Per Formula. Difference between the \$ Value of the Small/Small Diverse Business Purchase Order presented in Column E and the \$ Value of the Total Payment to Date in Column G.

**Section 4 - Non-Stocking Supplier Commitments:** SB/SDB non-stocking suppliers are credited at only the amount of the fee or commission charged by the SB/SDB non-stocking supplier for assistance in the procurement of the materials and supplies provided the fees or commissions are reasonable and not excessive as compared with fees customarily allowed for similar services and with the understanding that under no circumstances shall the credit, for a SB/SDB non-stocking supplier, exceed 10% of the purchase order cost.

- A** Enter Small/Small Diverse Business Company Name.
- B** Click on the cell where the Small/Small Diverse Business Type (MBE, WBE, etc.) must be entered. After clicking on the cell a "drop down" symbol will appear to the right of the cell. Click on the "drop down" symbol and scroll down to the Small/Small Diverse Business Type (MBE, WBE, etc.) describing the Small/Small Diverse Business being entered.
- C** Enter the Expiration Date of the Small/Small Diverse Business. This can be found on the Small/Small Diverse Business certificate or the the Small/Small Diverse Business online profile.
- D** Enter the \$ Value of the Small/Small Diverse Business Purchase Order.
- E** Enter a description of the materials, supplies, and/or equipment being provided.
- F** Enter the % Fee or Commission charged by the Small/Small Diverse Business Non-Stocking Supplier for the provision of the materials, supplies, and/or equipment.
- G** Computed Per Formula. Credit Towards Project MPL based on \$ Value of the Non-Stocking Supplier Purchase Order.
- H** Enter the total monies paid to the Small/Small Diverse Business in regards to the related reported Small/Small Diverse Business commitment.
- I** Computed Per Formula. Credit Towards Project MPL based on the ACTUAL PAYMENT TO DATE with respect to the Small/Small Diverse Business Purchase Order presented in Column C.
- J** Computed Per Formula. Difference between the \$ Value of the Small/Small Diverse Business Purchase Order presented in Column C and the \$ Value of the Total Payment to Date in Column G.

**Section 5 - Actual Commitment Summary By Small/Small Diverse Business Type and Service Category**

Section 5 - All information within Section 5 is Computed Per Formula with exception to Section 5 A as denoted below.

- A** For BDISBO use only. Rejected SDBUR reports may result in the withholding of future Application For Payments until the said report is satisfactorily submitted and approved.









<b>Designation</b>	<b>Description</b>
D	Disabled-Owned Business Enterprise
G	LGBT Business Enterprise
M	Minority Business Enterprise
S	Service-Disabled Veteran Business Enterprise
V	Veteran Business Enterprise
W	Woman Business Enterprise
DS	Disabled-Owned, Service-Disabled Veteran Business Enterprise
DV	Disabled-Owned, Veteran Business Enterprise
GD	LGBT, Disabled-Owned Business Enterprise
GS	LGBT, Service-Disabled Veteran Business Enterprise
GV	LGBT, Veteran Business Enterprise
MD	Minority, Disabled-Owned Business Enterprise
MG	Minority, LGBT Business Enterprise
MS	Minority, Service-Disabled Veteran Business Enterprise
MV	Minority, Veteran Business Enterprise
MW	Minority, Woman Business Enterprise
WD	Woman, Disabled-Owned Business Enterprise
WG	Woman, LGBT Business Enterprise
WS	Woman, Service-Disabled Veteran Business Enterprise
WV	Minority, Veteran Business Enterprise
GDS	LGBT, Disabled-Owned, Service-Disabled Veteran Business Enterprise
GDV	LGBT, Disabled-Owned, Veteran Business Enterprise
MDS	Minority, Disabled-Owned, Service-Disabled Veteran Business Enterprise
MDV	Minority, Disabled-Owned, Veteran Business Enterprise
MGD	Minority, LGBT, Disabled-Owned Business Enterprise
MGS	Minority, LGBT, Service-Disabled Veteran Business Enterprise
MGV	Minority, LGBT, Veteran Business Enterprise
MWD	Minority, Woman, Disabled-Owned Business Enterprise
MWG	Minority, Woman, LGBT Business Enterprise
MWS	Minority, Woman, Service-Disabled Veteran Business Enterprise
MWV	Minority, Woman, Veteran Business Enterprise
WDS	Woman, Disabled-Owned, Service-Disabled Veteran Business Enterprise
WDV	Woman, Disabled-Owned, Veteran Business Enterprise
WGD	Woman, LGBT, Disabled-Owned Business Enterprise
WGS	Woman, LGBT, Service-Disabled Veteran Business Enterprise
WGV	Woman, LGBT, Veteran Business Enterprise
MGDS	Minority, LGBT, Disabled-Owned, Service-Disabled Veteran Business Enterprise
MGDV	Minority, LGBT, Disabled-Owned, Veteran Business Enterprise
MWDS	Minority, Woman, Disabled-Owned, Service-Disabled Veteran Business Enterprise
MWDV	Minority, Woman, Disabled-Owned, Veteran Business Enterprise
MWGD	Minority, Woman, LGBT, Disabled-Owned Business Enterprise
MWGS	Minority, Woman, LGBT, Service-Disabled Veteran Business Enterprise
MWGV	Minority, Woman, LGBT, Veteran Business Enterprise
WGDS	Woman, LGBT, Disabled-Owned, Service-Disabled Veteran Business Enterprise
WGDV	Woman, LGBT, Disabled-Owned, Veteran Business Enterprise
MWGDS	Minority, Woman, LGBT, Disabled-Owned, Service-Disabled Veteran Business Enterprise
MWGDV	Minority, Woman, LGBT, Disabled-Owned, Veteran Business Enterprise
SB	Small Business

Department of Military & Veterans Affairs - Purchasing & Contracting BLDG 0-47 FTIG, Annville, PA 17003	<b>CERTIFICATE OF FINAL COMPLETION AND FINAL PAYMENT</b>	Project No:  Project Title:
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**SECTION I**

The undersigned certifies that he/she is a representative of the Professional appointed by the Department of Military and Veterans Affairs for the project indicated above; and, as such is duly qualified to sign and verify this certificate; and,

That the work associated with Contract No. \_\_\_\_\_ on the above referenced project has been deemed substantially complete on, \_\_\_\_\_; and,

That all of the construction work of this contract on the above referenced project has been completed in an acceptable manner and in accordance with the plans and specifications and any approved contract modifications thereto, with the exception of those minor items requiring completion as detailed in Section II; and,

That the Contractor, by virtue of said completion, can be paid all funds due and owing for the contract indicated above less one and one-half times the aggregate value of those certain minor items requiring completion or correction and any additional funds required to be withheld by the Department of Military and Veterans Affairs as set out in Article 14.2 of the General Conditions of Contract, 2019 Edition, as indicated in Section II.

WITNESS the due execution hereof on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_

DMVA Design Professional

**SECTION II**

The professional shall detail all items required to be completed or corrected to comply with the Contract Documents and assess a reasonable cost to complete in the table below (additional sheets may be attached if required).

ITEM NO.	DESCRIPTION	VALUE
		\$
		\$
		\$
		\$
		\$
Sub Total		\$
X		1.5
Total		\$

**Recapitulation of funds retained**

Punch List Items	\$
Credit Change Order(s)	\$
Approval of Change Order(s)	\$
Pending Claim(s)	\$
Liquidated Damages (\$ _____ /Day X _____ Days)	\$
Grand Total	\$

All Punch List Items shall be completed within thirty days after the date of the Final Completion Inspection

This certificate is acknowledged and accepted on this the \_\_\_\_\_ day of \_\_\_\_\_

:

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
DMVA Construction Project Manager

"General Decision Number: PA20200086 07/03/2020

Superseded General Decision Number: PA20190086

State: Pennsylvania

Construction Type: Building

County: Dauphin County in Pennsylvania.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/03/2020
1	01/24/2020
2	03/13/2020
3	04/17/2020
4	06/05/2020
5	06/19/2020
6	07/03/2020

\* ASBE0023-008 06/29/2020

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation).....	\$ 34.80	27.96

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 BOIL0013-008 03/01/2018

	Rates	Fringes
BOILERMAKER.....	\$ 45.89	33.39

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BRPA0005-062 05/01/2014

	Rates	Fringes
BRICKLAYER (Including Pointing, Caulking, and Cleaning).....	\$ 31.08	13.61

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CARP0287-011 06/01/2018

	Rates	Fringes
CARPENTER (Including Drywall Hanging, Metal Stud Installation, Form Work and Scaffold Building).....	\$ 29.53	16.10

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CARP0443-003 05/01/2019

	Rates	Fringes
MILLWRIGHT.....	\$ 35.18	18.82

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ELEC0143-010 06/01/2020

	Rates	Fringes
ELECTRICIAN (Includes Alarm Installation, Installation of Sound and Communication Systems, HVAC/Temperature Controls Installation, and Low Voltage Wiring).....	\$ 32.50	24.90

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ELEV0059-004 01/01/2020

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 48.33	34.765+a+b

## FOOTNOTES:

A. Employer contributes 8% of basic hourly rate for 5 years or more of service as vacation pay credit, and 6% of basic hourly rate for less than 5 years of service.

B. Eight Paid Holidays (provided employee has worked 5 consecutive days before and the working day after the holiday): New Years' Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day and the Friday after Thanksgiving Day, and Christmas Day.

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ENGI0066-044 07/01/2014

	Rates	Fringes
POWER EQUIPMENT OPERATOR Mechanic.....	\$ 28.37	15.66
Pump.....	\$ 25.20	15.66

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ENGI0542-032 05/01/2017

	Rates	Fringes
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POWER EQUIPMENT OPERATOR		
Crane.....	\$ 35.24	23.57
Hoist (Single Drum), Forklift (under 20 ft., excludes masonry work).....	\$ 32.23	22.68
Hoist (With Two Towers), Forklift (20 ft and over, excludes masonry work).....	\$ 34.96	23.48
Oiler.....	\$ 29.77	21.95

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IRON0404-022 07/01/2019

	Rates	Fringes
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IRONWORKER, STRUCTURAL, REINFORCING AND ORNAMENTAL.....	\$ 32.76	29.88
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LABO1180-016 05/01/2019

	Rates	Fringes
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LABORER		
Concrete Worker.....	\$ 21.76	14.53
Mason Tender- Brick.....	\$ 25.36	14.53

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PAIN0411-005 05/01/2017

	Rates	Fringes
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PAINTER: Brush and Roller Only...	\$ 23.47	13.20
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PLUM0520-013 05/01/2020

	Rates	Fringes
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PIPEFITTER (Includes HVAC Pipe Installation).....	\$ 37.52	28.04
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PLUM0520-015 05/01/2020

	Rates	Fringes
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PLUMBER (Excludes HVAC Unit Installation).....	\$ 37.52	28.04
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ROOF0030-014 05/01/2019

	Rates	Fringes
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ROOFER (Excludes Waterproofing).....	\$ 38.35	31.24
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SFPA0669-004 04/01/2020

	Rates	Fringes
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SPRINKLER FITTER (Fire Sprinklers).....	\$ 38.90	26.17
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SHEE0019-015 06/01/2020

	Rates	Fringes
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SHEET METAL WORKER (Includes  
HVAC Duct Installation).....\$ 37.26                    38.35

FOOTNOTE: Paid Holiday: Election Day

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\* UAVG-PA-0016 01/01/2016

	Rates	Fringes
OPERATOR: Bulldozer.....	\$ 37.85	22.72

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SUPA2011-044 08/20/2014

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 23.25	16.99
FLOOR LAYER: Carpet Only.....	\$ 25.71	12.02
GLAZIER.....	\$ 25.05	8.58
LABORER: Common/General, Including Landscaping.....	\$ 19.66	8.12
LABORER: Mason Tender - Cement/Concrete.....	\$ 17.89	8.28
LABORER: Forklift (Masonry Work Only).....	\$ 23.86	8.28
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 39.32	19.52
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 26.41	16.58
OPERATOR: Drill.....	\$ 27.43	16.94
OPERATOR: Gradall.....	\$ 32.70	18.43
OPERATOR: Grader/Blade.....	\$ 32.51	17.98
OPERATOR: Hydro Mulch.....	\$ 26.41	16.58
OPERATOR: Loader.....	\$ 27.05	14.52
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 30.39	15.05
PAINTER: Spray Only.....	\$ 27.89	13.53
PLUMBER (HVAC Unit Installation Only).....	\$ 27.09	10.02
ROOFER: Waterproofing Only.....	\$ 28.60	18.02
TILE FINISHER.....	\$ 20.70	8.51
TILE SETTER.....	\$ 24.30	11.79
TRUCK DRIVER: Dump Truck.....	\$ 20.86	4.84

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WELDERS - Receive rate prescribed for craft performing

operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

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

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and

the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

#### Union Average Rate Identifiers

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

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

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#### WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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



Washington, DC 20210

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

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

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

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

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

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

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END OF GENERAL DECISION"