

SCHEDULE 13

Federal Requirements, WIN/OJT Provisions, Title VI, DBE and ESB Programs

Part 1

Federal Requirements Equal Employment Opportunity; Subcontracts; Labor

1. Federal Requirements

- 1.1 General. The Phase 2 Construction Work will be financed in whole or in part with federal funds, and notwithstanding anything to the contrary contained in the Contract, the Concessionaire shall observe the federal laws, rules and regulations applicable to projects, which are so funded.
- 1.2 Federal Aid Participation. The Phase 2 Construction Work shall be subject to the inspection of the proper officials of the United States Government. Inspections made by authorized federal representatives shall not make the United States Government a party to this Contract and will not interfere with the rights of the Parties.
- 1.3 FHWA Buy America Requirements. FHWA Federal-aid projects are subject to 23 CFR § 635.410, Buy America requirements. Contractor's proposal documents indicate Contractor's certification to use only domestic steel and iron. To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes, which protect or enhance the value of the material to which the coating is applied. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed 0.1 percent of the contract price.
- 1.4 Convict Produced Materials. FHWA Federal-aid projects are subject to 23 CFR § 635.417, Convict produced materials. Materials produced after July 1, 1991, by convict labor may only be incorporated in a federal aid highway construction project if such materials have been: (i) produced by convicts who are on parole, supervised release, or probation from a prison; or (ii) produced in a prison facility in which convicts, during the 12 month period ending July 1, 1987, produced materials for use in federal aid highway construction projects, and the cumulative annual production amount of such materials for use in federal aid highway construction does not exceed the amount of such materials produced in such facility for use in federal aid highway construction during the 12 month period ending July 1, 1987.

2. Equal Employment Opportunity

- 2.1 Equal Employment Opportunity Policy. The Concessionaire confirms that it has an equal employment opportunity policy ensuring equal employment opportunity without regard to race, color, national origin, sex, age, religion or handicap; and that it maintains no employee facilities segregated on the basis of race, color, religion or national origin. For purposes of the Phase 2 Construction Work, the Concessionaire shall comply with CDOT's standard special provision for "Affirmative Action Requirements Equal Employment Opportunity" (Attachment 1 to Part 1 of this Schedule 13) and "U.S Dept. of Labor, Davis Bacon Minimum Wages, Colorado General Decision Numbers CO 20100014 and CO2010015 Highway Construction" (Attachment 2 to Part 1 of this Schedule 13), FHWA Form 1273 (Attachment 3 to Part 1 of this Schedule 13) and all other applicable Laws. Concessionaire and HPTE

EXECUTION VERSION

acknowledge and agree that references to websites in the FHWA Form 1273 in this document may have been updated or amended by FHWA since the May 2012, and each Party will refer to the applicable successor websites, to the extent applicable.

- 2.2 Non-Discrimination. The Concessionaire shall comply with all applicable legal requirements that enumerate unlawful employment practices including discrimination because of race, religion, color, gender, age, disability, or national origin, and that define actions required for affirmative action and minority/disadvantaged business programs. The Concessionaire shall not discriminate against any employee or applicant for employment because of race, color, national origin, religion, sex, age or handicap. The Concessionaire shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, national origin, religion, gender, age or handicap. Such action shall include the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessionaire agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

3. Subcontracting

- 3.1 Subcontract Approval. Prior to the commencement of any work by a Sub-Contractor, the Concessionaire must submit a modified CDOT Form 205, in the form provided to Proposers in the memorandum dated FEBRUARY 1, 2013, as Schedule 2, and receive approval from the EO Compliance Officer.
- 3.2 Required EEO Terms. The Concessionaire shall include paragraphs 2.1 and 2.2 of this Part 1 of Schedule 13 in every Sub-Contract over \$10,000 (including purchase orders), and shall require that they be included in all Sub-Contracts over \$10,000 at lower tiers, so that such provisions will be binding upon each Sub-Contractor.
- 3.3 Certification of Compliance. The Concessionaire has executed the "Certification of Compliance with EEO Clause Requirements" located in the proposal. No request for subcontracting any portion of the Contract in excess of \$10,000 will be considered under paragraph VII of the required contract provisions contained in Attachment 3 of Part 1 this Schedule 13 unless such request is accompanied by the form of certification referred to above, executed by the proposed Sub-Contractor.
- 3.4 The Concessionaire shall perform at least 30 percent of the construction work, and the entity responsible for design shall perform at least 30 percent of the design work. The percentage of construction work sublet shall be determined by dividing the total dollar value of the Sub-Contracts for construction work, excluding any Sub-Contracts with Equity Members but including any lower tier Sub-Contracts through Equity Members, by the portion of the contract price allocable to construction work (as determined by HPTE). The percentage of design work sublet shall be determined by dividing the total dollar value of the lower tier design Sub-Contracts by the total dollar value of the prime design Sub-Contract(s); (i.e. the Sub-Contract(s) between the Concessionaire and the Equity Members(s) responsible for design).
- 3.5 Subcontracting Requirements. The Concessionaire shall comply with all applicable requirements of the Contract relating to Sub-Contracts, and shall ensure that its Sub-Contractors (at all tiers) comply with all applicable requirements of the Contract relating to subcontracting.

SCHEDULE 13

Part 1 – Attachment 1

**AFFIRMATIVE ACTION REQUIREMENTS
EQUAL EMPLOYMENT OPPORTUNITY**

1. **AFFIRMATIVE ACTION REQUIREMENTS**

1.1 Executive Order.

(a) The Concessionaire’s attention is called to the “Equal Opportunity Clause” and the “Standard Federal Equal Employment Opportunity Construction Contract Specifications” herein.

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

Goals and Timetable for Minority Utilization

Timetable - Until Further Notice			
Economic Area	Standard Metropolitan Statistical Area (SMSA)	Counties Involved	Goal
157 (Denver)	2080 Denver-Boulder	Adams, Arapahoe, Boulder, Denver, Douglas, Gilpin, Jefferson.....	13.8%
	2670 Fort Collins	Larimer.....	6.9%
	3060 Greeley	Weld.....	13.1%
	Non SMSA Counties	Cheyenne, Clear Creek, Elbert, Grand, Kit Carson, Logan, Morgan, Park, Phillips, Sedgwick, Summit, Washington & Yuma.....	12.8%
158 (Colo. Spgs. - Pueblo)	1720 Colorado Springs	El Paso, Teller.....	10.9%
	6560 Pueblo	Pueblo.....	27.5%
	Non SMSA Counties	Alamosa, Baca, Bent, Chaffee, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Lake, Las Animas, Lincoln, Mineral, Otero, Prowers, Rio Grande, Saguache.....	19.0%
159 (Grand Junction)	Non SMSA	Archuleta, Delta, Dolores, Eagle, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan, San Miguel	10.2%

EXECUTION VERSION

156 (Cheyenne - Casper WY)	Non SMSA	Jackson County, Colorado.....	7.5%
GOALS AND TIMETABLES FOR FEMALE UTILIZATION			
Until Further Notice.....			6.9% --
Statewide			

- (c) These goals are applicable to all the Concessionaire’s construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Concessionaire performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Concessionaire also is subject to the goals for both its federally involved and non-federally involved construction.
 - (d) The Concessionaire’s compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause specific affirmative action obligations required by the specifications in 41 CFR 60-4.3(a), and its efforts meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Concessionaire shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Concessionaire to Concessionaire or from project to project for the sole purpose of meeting the Contractor’s goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Par 60-4. Compliance with the goals will be measured against the total work hours performed.
- 1.2 The Concessionaire shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 Business Days of award of any construction Sub-Contract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Sub-Contractor; employer identification number; estimated dollar amount of the Sub-Contract; estimated starting and completion dates of the subcontract; and the geographical area in which the Sub-Contract is to be performed.
- 1.3 As used in this specification, and in the contract resulting from this solicitation, the “covered area” is the county or counties shown on the RFP and on the plans. In cases where the work is in two or more counties covered by differing percentage goals, the highest percentage will govern.
- 2. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION**
- 2.1 **CONTRACT SPECIFICATIONS**
- Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)
- 2.2 As used in Attachment 1 to Part 1 of Schedule 13:
- (a) “Covered area” means the geographical area described in the RFP from which this Contract resulted;

EXECUTION VERSION

- (b) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - (c) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - (d) "Minority" includes;
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- 2.3 Whenever the Concessionaire or any Sub-Contractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is in the solicitations from which this Contract resulted.
- 2.4 If the Concessionaire is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. The Concessionaire must be able to demonstrate their participation in and compliance with the provisions of any such "Hometown Plan". The Concessionaire and each Sub-Contractor participating in an approved Hometown Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Sub-Contractor toward a goal in an approved Hometown Plan does not excuse any covered Contractor's or Sub-Contractor's failure to take good faith efforts to achieve the Hometown Plan goals and timetables.
- 2.5 The Concessionaire shall implement the specific affirmative action standards provided in paragraph 2.8 of these specifications. The goals in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Concessionaire should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any office of Federal Contract Compliance Programs Office or from Federal

EXECUTION VERSION

procurement contracting officers. The Concessionaire is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

- 2.6 Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Concessionaire has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- 2.7 In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Concessionaire during the training period, and the Concessionaire must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- 2.8 The Concessionaire shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Concessionaire's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Concessionaire shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following;
 - (a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Concessionaire's employees are assigned to work. The Concessionaire, where possible, will assign two or more women to each construction project. The Concessionaire shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Concessionaire's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Concessionaire or its union have employment opportunities available, and maintain a record of the organization's responses.
 - (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source of community organization and of what action was taken with respect to each individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Concessionaire by the union or, if referred, not employed by the Concessionaire, this shall be documented in the file with the reason therefor, along with whatever additional actions the Concessionaire may have taken.

EXECUTION VERSION

- (d) Provide immediate written notification to the Director when the union with which the Concessionaire has a collective bargaining agreement has not referred to the Concessionaire a minority person or woman sent by the Concessionaire, or when the Concessionaire has other information that the union referral process has impeded the Concessionaire's efforts to meet its obligations.
- (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Concessionaire's employment needs, especially those programs funded or approved by the Department of Labor. The Concessionaire shall provide notice of these programs to the sources compiled under 7b above.
- (f) Disseminate the Concessionaire's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Concessionaire in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year, and by posting the Concessionaire's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- (g) Review, at least annually, the Concessionaire's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (h) Disseminate the Concessionaire's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Concessionaires and Sub-Concessionaires with whom the Concessionaire does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Concessionaire's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Concessionaire shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Concessionaire's workforce.
- (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- (l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc. such opportunities.

EXECUTION VERSION

- (m) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Concessionaire's obligations under these specifications are being carried out.
 - (n) Ensure that all facilities and Concessionaire's activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Concessionaires and suppliers, including circulation of solicitations to minority and female Concessionaire associations and other business associations.
 - (p) Conduct a review, at least annually, of all supervisor's adherence to and performance under the Concessionaire's EEO policies and affirmative action obligation.
- 2.9 The Concessionaire is encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (paragraph 2.8). The efforts of a Concessionaire association, joint contractor-union contractor-community, or other similar group of which the Concessionaire is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the Concessionaire actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Concessionaire's minority and female workforce participation, makes a good faith effort to meet its individual goal and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Concessionaire. The obligation to comply, however, is the Concessionaire's and failure of such a group to fulfill an obligation shall not be a defense for the Concessionaire's noncompliance.
- 2.10 A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Concessionaire may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Concessionaire has achieved its goals for women generally, the Concessionaire may be in violation of the Executive Order if a specific minority group of women is underutilized).
- 2.11 The Concessionaire shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- 2.12 The Concessionaire shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 2.13 The Concessionaire shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Concessionaire who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

EXECUTION VERSION

- 2.14 The Concessionaire in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Concessionaire fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- 2.15 The Concessionaire shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form, however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- 2.16 Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

3. **SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES.**

3.1 General.

- (a) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are in Required Contract. Provisions (Form FHWA 1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal-Aid highway Act of 1968. The requirements in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements in the Required Contract provisions.
- (b) The Concessionaire will work with the State highway agencies and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.
- (c) The Concessionaire and all his/her Sub-Contractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The Concessionaire will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the Sub-Contractor.

EXECUTION VERSION

- 3.2 Equal Employment Opportunity Policy. The Concessionaire will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program: "It is the policy of the Concessionaire to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include; employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training.
- 3.3 Equal Employment Opportunity Officer. The Concessionaire will designate and make known to the State highway agency contracting officers and equal employment opportunity officer (herein after referred to as the EEO Officer) who will have the responsibility for an must be capable of effectively administering and promoting an active Concessionaire program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.
- 3.4 Dissemination of Policy.
- (a) All members of the Concessionaire's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Concessionaire's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
- (i) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the Contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
- (ii) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official, covering all major aspects of the Contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the Contractor.
- (iii) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the Contractor's procedures for locating and hiring minority group employees.
- (b) In order to make the Concessionaire's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the Concessionaire will take the following actions:
- (i) Notices and posters setting forth the Contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

EXECUTION VERSION

- (ii) The Concessionaire's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

3.5 Recruitment.

- (a) When advertising for employees, the Concessionaire will include in all advertisements for employees the notation; "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- (b) The Concessionaire will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Concessionaire will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the Concessionaire for employment consideration.
- (c) In the event the Concessionaire has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the Contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Concessionaire to do the same, such implementation violates Executive Order 11246, as amended.)
- (d) The Concessionaire will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

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

- (a) The Concessionaire will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- (b) The Concessionaire will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- (c) The Concessionaire will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Concessionaire will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

EXECUTION VERSION

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

3.7 Training and Promotion.

- (a) The Concessionaire will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- (b) Consistent with the Contractor's work force requirements and as permissible under Federal and State regulations, the Concessionaire shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.
- (c) The Concessionaire will advise employees and applicants for employment of available training programs and entrance requirements for each.
- (d) The Concessionaire will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

3.8 Unions. If the Concessionaire relies in whole or in part upon unions as a source of employees, the Concessionaire will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women with the unions, and to effect referrals by such unions of minority and female employees. Actions by the Concessionaire either directly or through a contractor's association acting as agent will include the procedures described below:

- (a) The Concessionaire will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- (b) The Concessionaire will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- (c) The Concessionaire is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Contractor, the Concessionaire shall so certify to the State highway department and shall describe what efforts have been made to obtain such information.
- (d) In the event the union is unable to provide the Concessionaire with a reasonable flow of minority and women referrals within the time limit described in the collective bargaining agreement, the Concessionaire will, through independent recruitment

EXECUTION VERSION

efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the Concessionaire has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the Concessionaire from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such Concessionaire shall immediately notify the State highway agency.

3.9 Subcontracting.

- (a) The Concessionaire will use his best efforts to solicit bids from and to utilize minority group Sub-Contractors or Sub-Contractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from State highway agency personnel.
- (b) The Concessionaire will use his best efforts to ensure Sub-Contractor compliance with their equal employment opportunity obligations.

3.10 Records and Reports.

- (a) The Concessionaire will keep such records as are necessary to determine compliance with the Contractor's equal employment opportunity obligations. The records kept by the Concessionaire will be designed to indicate:
 - (i) The number of minority and nonminority group members and women employed in each work classification on the project.
 - (ii) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force).
 - (iii) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and
 - (iv) The progress and efforts being made in securing the services of minority group Sub-Contractors or Sub-Contractors with meaningful minority and female representation among their employees.
- (b) All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State highway agency and the Federal Highway Administration.
- (c) The Concessionaire will submit an annual report to the State highway agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR 1391.

SCHEDULE 13

Part 1 – Attachment 2

Concessionaire shall be required to comply the Davis-Bacon wage requirements then in place applicable to the Project as published at www.wdol.gov, or such successor website.

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.

Schedule 13
Part 1- Attachment 3

FHWA-1273 -- Revised May 1, 2012

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

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

EXECUTION VERSION

superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

Schedule 13-15, Part 1, Attachment 3

EXECUTION VERSION

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

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

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

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

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

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

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

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

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

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

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

implementation violates Federal nondiscrimination provisions.

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase

EXECUTION VERSION

opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

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

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

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

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

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

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

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

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

contracting agency deems appropriate.

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA1273 format and FHWA program requirements.

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein:

Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the

EXECUTION VERSION

action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

EXECUTION VERSION

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

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

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

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

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

EXECUTION VERSION

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

EXECUTION VERSION

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

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

5. Compliance with Copeland Act requirements. The contractor shall comply with the

EXECUTION VERSION

requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
10. **Certification of eligibility.**
 - a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor

EXECUTION VERSION

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment

EXECUTION VERSION

of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

- b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

Schedule 13-27, Part 1, Attachment 3

EXECUTION VERSION

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

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

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

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

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

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

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

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

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

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

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

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or

any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred,

or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

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

* * * * *

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

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

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

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

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

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

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

3. Instructions for Certification - Lower Tier Participants:

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

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

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

pursue available remedies, including suspension and/or debarment.

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

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

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

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

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

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

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

* * * * *

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

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

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

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly

EXECUTION VERSION

reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

- a. To the extent that qualified persons regularly residing in the area are not available.
- b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
- c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

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

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

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

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

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

Schedule 13

Part 2

Workforce Development Program Requirements

1. General Overview
 - 1.1 The Concessionaire shall be required to develop and implement a Workforce Development Program in order to provide training opportunities on the Phase 2 Construction Work. Training opportunities must be provided in both the professional services and the skilled craft classifications of construction activities. The Concessionaire shall need to identify training opportunities within its own workforce and that of its Sub-Contractors in order to reach the Phase 2 Construction Work goals. Two training goals have been established for the Phase 2 Construction Work. The goals are separated into two categories and are distinct from each other. These goals reflect the minimum amount of hours necessary to meet the goals requirement for the Phase 2 Construction Work. The minimum Phase 2 Construction Work training goals have been set as follows:
 - (a) The greater of 9 percent of the total Phase 2 Construction Work workforce labor hours or 6,500 hours, of which at least 8 percent of these hours must be expended in professional services. The remaining training hours shall be expended in the skilled crafts for construction activities.
 - (b) Professional service participants may perform professional services such as design, quality control, quality assurance, surveying, contract administration, easement acquisition, and public information duties. CDOT, in its sole discretion, will determine whether particular tasks meet the definition of professional services.
 - (c) The skilled craft participants must perform construction related activities such as carpentry, masonry, iron worker, equipment operator, mechanic work, etc. and must be enrolled in an approved program. Laborer activities will only be allowed if incidental to an actual training program that leads to a higher skilled journey worker status.
 - (d) The Concessionaire shall translate the percentage goals listed above into hours for the Phase 2 Construction Work based on the Concessionaire's estimated total workforce labor hours for the Phase 2 Construction Work, and include this information in the Workforce Proposal.
 - (e) Compliance by the Concessionaire will be measured by the actual hours worked by trainees in each category on the Phase 2 Construction Work compared to the total workforce labor hours expended on the Phase 2 Construction Work.
 - 1.2 The Concessionaire shall be responsible for administering and reporting on all Workforce Development Program accomplishments.
2. Workforce Development Plan
 - 2.1 The Concessionaire shall submit its final Workforce Development Plan for professional services and construction activities to CDOT for approval within 180 days of the Contract

EXECUTION VERSION

Date. The proposed Workforce Development Plan must be approved by CDOT prior to the Commencement Date. The Workforce Development Plan is intended to be a living document and shall be updated or revised as necessary during the course of the Phase 2 Construction Work through collaboration with CDOT and Concessionaire. All subsequent revisions to the Workforce Development Plan shall be submitted to CDOT for approval. The Workforce Development Plan shall describe the Concessionaire's innovative approach to identifying and incorporating training opportunities in the Phase 2 Construction Work workforce.

- 2.2 The intent of the Workforce Development Plan is to provide an innovative approach to train and upgrade women and minorities in the professional services and journey worker status of the skilled crafts. Training opportunities may be provided with on-the-job trainees or duly registered apprentices. The Concessionaire shall make every reasonable effort to enroll and train women and minorities with this Plan. This training commitment shall not be used to discriminate against any applicant for training whether or not the applicant is a woman or minority.
- 2.3 No trainee/apprentice shall be used in a professional service or skilled craft for which he/she has already worked or been paid at a professional/journey level status for more than 12 months.
- 2.4 CDOT has established minimum wage rates for the Workforce Development Program participants that the Concessionaire shall be required to pay. The Concessionaire shall be responsible for payment to the trainees and ensure payment is not less than the minimum rates established. Trainees in the professional services must be paid at least a minimum base rate of \$12.00 per hour. Trainees/apprentices that work in the skilled crafts must be paid at least the minimum base wage rate listed for the Laborer Pipelayer, Code 1166, on the Wage Decision provided in the Concession Project Website. In addition, trainees/apprentices working in the skilled crafts must be paid the full fringe benefit rate per hour for the classification of work required by the approved program.
- 2.5 The Concessionaire, and its Sub-Contractors, may meet the training goals by any of the following three methods or combination thereof:
 - (a) May employ temporary workers from the RTD's Workforce Initiative Program
 - (b) May employ trainees that are enrolled in a program approved by CDOT and the FHWA; and/or
 - (c) May employ apprentices that are enrolled and duly registered in a U.S. Department of Labor approved program.
- 2.6 The Workforce Development Plan shall include the following elements:
 - (a) Identify the number and description of the training positions available in professional services.
 - (b) Identify the number and description of the skilled craft areas where trainees shall be used in construction activities.
 - (c) A description of how the Concessionaire, and Sub-Contractors, shall work with community organizations for recruitment.
 - (d) The minimum length and type of training that shall be offered for each position.

EXECUTION VERSION

- (e) The Concessionaire shall identify the pay rate for trainees in the professional services and shall identify the source of pay rates for each skilled craft classification.
 - (f) In order to ensure successful training and graduation, the Concessionaire shall need to describe how it shall monitor hours completed, training provided, and provide assistance to alleviate barriers to employment, graduation and successful permanent placement.
 - (g) Identify the Concessionaire's approach to graduating participants. The Concessionaire shall establish a goal for the percentage of participants graduating from an approved program while working on the Phase 2 Construction Work.
 - (h) Identify the Concessionaire's point of contact for administration of the Workforce Development Program.
 - (i) A schedule indicating the distribution of training hours over the duration of the Phase 2 Construction Work.
 - (j) The Workforce Development Plan is intended to be a living document and shall be updated or revised as necessary during the course of the Phase 2 Construction Work. All subsequent revisions to the Workforce Development Plan shall be submitted to CDOT for approval.
- 2.7 The Concessionaire shall provide any records related to the Workforce Development Program upon request by CDOT. The Concessionaire shall provide the records in an organized format easily reviewable by CDOT.
3. Reporting
- 3.1 The Concessionaire shall keep records regarding the progress of the Workforce Development Program participation on the Phase 2 Construction Work, including Sub-Contractor participation. The Concessionaire shall provide reports monthly to CDOT including the following information:
- (a) Total labor hours expended on the Phase 2 Construction Work to date separated into two categories: skilled craft labor hours and professional services labor hours.
 - (b) Total training hours expended on the Phase 2 Construction Work to date separated into skilled craft labor hours and professional services labor hours.
 - (c) Projected training hours for the Phase 2 Construction Work until completion in each category.
 - (d) Projected total workforce labor hours for the Phase 2 Construction Work until completion in each category.
 - (e) If the forecasted training hours are less than the Phase 2 Construction Work goal, the Concessionaire shall provide a plan detailing how the training goals shall be met including any remedies necessary to meet the Phase 2 Construction Work goal.

EXECUTION VERSION

- (f) A list of new trainees/apprentices by providing full name, employer, description of services or applicable work code, start date, skilled craft program registered in (including verification of enrollment), total hours worked in current month, pay rate, total hours worked to date on the Phase 2 Construction Work, supervisor full name, and a description of the training and performance level.
 - (g) A list of current trainees/apprentices active on the Phase 2 Construction Work by providing full name, employer, description of services or applicable work code, start date, skilled craft program registered in, total hours worked in current month, pay rate, total hours worked to date on the Phase 2 Construction Work, supervisor full name, and a description of the training and performance.
 - (h) Any performance problems with the training participants and how the problems were resolved, including any reasons for participants leaving the Phase 2 Construction Work.
 - (i) A list of trainees/apprentices that have graduated or successfully completed their training program, and last date worked on site.
 - (j) An example Workforce Development Program tracking sheet is provided in Attachment 1 to Part 2 of this Schedule 13.
 - (k) A signature by the Concessionaire certifying the information in the report is accurate.
4. Workforce Development Program Review
- (i) The Concessionaire shall participate in a progress review of the Workforce Development Program with CDOT and RTD staff to be held semi-annually, or as requested by CDOT. The Workforce Development Program review shall assess the effectiveness of the program, identify any areas for improvement, and provide recommendations for improving the program. The Concessionaire's progress with the Workforce Development Program will be reviewed upon significant completion of the professional services for the Phase 2 Construction Work.
5. Disincentives for Failure to Meet the Workforce Development Program Training Goal Commitments
- (i) In the event that the Concessionaire fails to meet the training goal commitments defined in the Workforce Proposal, CDOT, in its sole discretion, will assess the following disincentive: A sum representing the number of training hours committed to in the Concessionaire's Proposal, in each area of professional services and skilled crafts, minus the number of training hours worked as reported in Exhibit B, multiplied by the hourly wages plus fringe benefits $\{(A \text{ hours} - B \text{ hours worked}) \times (C \text{ dollars per hour} + D \text{ fringe benefits})\}$ = disincentive assessed. Wage rates will be determined by CDOT by reviewing the wages for professional services charged by the Concessionaire or the journey worker wage rates of the appropriate skilled craft listed in the Workforce Development Program. If the Concessionaire fails to meet the Proposal goal commitment for trainees in professional services, a disincentive may be assessed upon significant completion of the professional services for the Phase 2 Construction Work. CDOT shall provide the Concessionaire with a written notice prior to completion of the Phase 2

EXECUTION VERSION

Construction Work informing the Concessionaire of the noncompliance with this provision which will include a calculation of the disincentive to be assessed; such assessment shall be provided to HPTE as part of the Conditions Precedent to the Full Services Commencement Date.

Attachment 1 to Part 2 of Schedule 13

Workforce Development Program Tracking Sheet



US 36 - Schedule 13
- Exhibit B - Example 1

Schedule 13

Part 3

Title VI, DBE and ESB Program Requirements

1. **Title VI Contract Requirements.** During the performance of this Contract, the Concessionaire agrees as follows:
 - 1.1 Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the USDOT Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Title VI Regulations"), which are herein incorporated by reference and made a part of this contract.
 - 1.2 Nondiscrimination: Concessionaire, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of Sub-Contractors, including procurements of materials and leases of equipment. Concessionaire shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Title VI Regulations, including employment practices when the contract covers a program described in Appendix B of the Title VI Regulations.
 - 1.3 Solicitations for Sub-Contractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Concessionaire for work to be performed under a Sub-Contract, each potential Sub-Contractor shall be notified by Concessionaire of Concessionaire's obligations under the Contract and the Title VI Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - 1.4 Information and Reports: Concessionaire shall provide all information and reports required by the Title VI Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by HPTE or CDOT to be pertinent to ascertain compliance with such Title VI Regulations, orders and instructions. Where any information required of Concessionaire is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to HPTE or CDOT as appropriate, and shall detail what efforts it has made to obtain the information.
 - 1.5 Sanctions for Noncompliance: In the event of Concessionaire's noncompliance with the nondiscrimination provisions of the Contract, such occurrence may be a Concessionaire Default.
 - 1.6 Incorporation of Provisions: Concessionaire shall include the provisions of paragraph 1.1 through 1.5 of this Part 3 to Schedule 13, in all Sub-Contracts, including procurements of materials and leases of equipment, unless exempt by the Title VI Regulations, or directives issued pursuant thereto.
 - 1.7 Concessionaire shall take such action with respect to any subcontract. or procurement as HPTE/CDOT may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event Concessionaire becomes involved in, or is threatened with, litigation with a Sub-Contractor as a result of such direction, Concessionaire may request HPTE to enter into such litigation to protect the interests of the HPTE and, in addition, Concessionaire may request the United States to enter into such litigation to protect the interests of the United States.

2. Disadvantage Business Enterprise (DBE) Program Requirements

- 2.1 Required Contract Provision. The Concessionaire hereby agrees to the following and shall include this assurance without modification in all subcontracts: The contractor, sub recipient or Sub-Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
- 2.2 DBE Contract Goal: The DBE Contract Goal for the Project is 11% DBE participation for the total cost of the Phase 2 Construction Work. The DBE Contract Goal applies only to the Phase 2 Construction Work. The DBE Contract Goal shall not apply to the Operations, Routine Maintenance, Life Cycle Maintenance and Snow and Ice Removal portions of the Project, however, the Concessionaire is required to make good faith efforts to secure DBE participation on any portion of the contract financed in whole or part by federal funds.
- 2.3 Life Cycle Maintenance Projects. For purposes of the DBE program, Life Cycle Maintenance Projects shall be treated as though the Concessionaire is a local agency of CDOT. The Concessionaire shall follow the procedures contained in CDOT's then-current local agency manual, including but not limited to (1) submitting the project advertisement to the CDOT Regional Civil Rights Office for establishment of a DBE Contract Goal and (2) providing the CDOT Civil Rights & Business Resource Center the opportunity to evaluate the winning proposal for compliance with 49 CFR part 26 and CDOT's DBE requirements.
- 2.4 DBE Performance Plan Requirements. HPTE and Concessionaire each acknowledge and agree the DBE Performance Plan was approved in the form attached hereto as Appendix 1 to Schedule 13, Part 3.
- 2.5 Responsibility of the Concessionaire. The Concessionaire acknowledges and agrees that it shall continue to exercise its own judgment in selecting any DBE to participate in the Project, including DBEs participating under the Concessionaire's Sub-Contractors. The Concessionaire is solely responsible for verifying the certification of DBEs it intends to use prior to entering into a subcontract with a DBE. The Concessionaire is responsible for the meeting the DBE Contract Goal and cannot delegate any portion of such responsibility to a Sub-Contractor.
- 2.6 Eligible DBE Participation. When determining whether the Proposer has made commitments sufficient to meet the DBE Contract Goal and when counting DBE participation at the completion of the Phase 2 Construction Work, DBE participation will be counted in accordance with the following:
- (a) The DBE must be certified in Colorado under the applicable work code at the submission of the proposal and upon commencement of work. All eligible DBEs are listed on the Colorado Unified Certification Program (UCP) DBE Directory at <http://coloradodbe.org>. "Work code" means the North American Industry Classification System (NAICS) code plus the more detailed index descriptor. Where a DBE's certification status changes prior to commencement of work, the Concessionaire will be required to modify the DBE Performance Plan and make a good faith effort to find a replacement.

EXECUTION VERSION

- (b) In order for DBE participation in a joint venture to count for DBE participation, the joint venture must seek and receive written approval from The Civil Rights & Business Resource Center. The request for approval must identify all firms involved, state the expected business of the joint venture, include the signature of all firms, and be accompanied by the joint venture agreement. The Civil Rights & Business Resource Center will make an eligibility determination within ten business days of receiving the request. Provided a DBE joint venture has been preauthorized by the Civil Rights & Business Resource Center, such DBE joint venture shall count toward the DBE Contract Goal in accordance with 26.55(b). Service and construction work contracts committed to and/or performed by DBE firms shall count toward the DBE Contract Goal in accordance with 49 CFR 26.55(a).
 - (c) Material and supply contracts committed to and/or fulfilled by DBE firms, including brokerage contracts, shall count toward the DBE Contract Goal in accordance with 49 CFR 26.55(e).
 - (d) DBE trucking firms shall count toward the DBE Contract Goal for all transportation services performed with the DBE's own trucks and employees and/or DBE lessees. The DBE trucking firm will not receive credit for any work performed by non-DBE lessees and where a DBE trucking firm acts as a broker it shall only receive credit for its fees and services in accordance with 49 CFR 26.55(a)(2).
 - (e) Commercially Useful Function. Only payments to DBEs that independently perform a commercially useful function in the work of the contract shall count toward the DBE Contract Goal. "Commercially useful Function" means responsibility for the execution of the work of the contract and actual performance, management, and supervision of the work involved as further explained in 49 CFR 26.55(c) and (d). A Concessionaire shall not use joint checks where it compromises the commercially useful function of a DBE, including the responsibility for negotiating for and/or paying for the material of a project. Where a joint check is used in payment to a DBE, the Concessionaire shall bear the burden of demonstrating that the joint check did not compromise the commercially useful function of the DBE and that such activity was not discriminatory.
- 2.7 Goal Not Waived. The Civil Rights & Business Resource Center's acceptance of a DBE Performance Plan wherein the Preferred Proposer does not make commitments sufficient to meet the DBE Contract Goal does not waive the DBE Contract Goal on the Project. All documented efforts of the Concessionaire, and lack thereof, will be considered when the Civil Rights & Business Resource Center evaluates whether to assess sanctions at the end of the design-build portion of the Project.
- 2.8 Post-Award Good Faith Efforts. The Concessionaire must provide monthly reports to the EO Compliance Officer, wherein it shall document prompt payment and post-award good faith efforts. Where a Concessionaire fails to meet the DBE Contract Goal, the Civil Rights & Business Resource Center will evaluate the Concessionaire's documented post-award good faith efforts to determine whether and to what extent to assess sanctions. The monthly and semi-annual reports of the Concessionaire shall constitute the record for the project and shall not be amendable after the fact. Therefore, the Concessionaire must ensure that all reports completely and accurately reflect its entire post-award good faith efforts and keeps supporting documentation thereof.

EXECUTION VERSION

- 2.9 Modifications to and Enforcement of the Concessionaire's DBE Performance Plan. All modifications to the Concessionaire's DBE Performance Plan, including changes in scope which reduce a DBE's participation, a temporary substitution and/or the Concessionaire's intent to self-perform work that is part of the DBE commitments, must be submitted for approval in writing by the Concessionaire's DBE Officer to the EO Compliance Officer. The modification(s) shall not be made until approved by the EO Compliance Officer.
- 2.10 Termination of a DBE. Any termination or cancellation of a commitment and/or a written agreement with a DBE for which a 205P has been submitted will require the approval of the EO Compliance Officer. When termination is being considered, the Concessionaire should discuss such termination with the EO Compliance Officer to determine the best course of action. Further, in order for such termination or cancellation to be approved, the Concessionaire must:
- (a) Have a good cause for seeking modification to the commitment. Good cause may include: the DBE fails or refuses to execute a written contract; the DBE fails or refuses to perform the work of its subcontract consistent with normal industry standards and not resulting from bad faith or discriminatory actions of the prime; the DBE fails to meet reasonable, nondiscriminatory bond requirements; the DBE becomes bankrupt, insolvent, or exhibits credit unworthiness; the DBE is ineligible to work because of suspension and debarment proceedings; the DBE is not a responsible contractor; the DBE voluntarily withdraws from the project and provides written notice; the DBE is ineligible to receive DBE credit for the type of work required; the DBE owner dies or becomes disabled and is unable to complete its work; or other documented good cause that compels termination.
 - (b) Give written notice to the DBE of the contractor's intent to seek HPTE's approval of the termination or modification of the DBE's participation with a copy to the EO Compliance Officer; and
 - (c) Provide the DBE five (5) days to respond to the notice and resolve the situation. The notice period may be reduced by HPTE if required by public necessity (e.g., safety, critical deadlines, etc.).
- 2.11 Use and Approval of Joint Checks. All use of joint checks must be approved by HPTE before they are used. Use of joint checks will be evaluated by HPTE and FHWA on a case-by-case basis. Request for joint checks must be made by the Concessionaire to the EO Compliance Officer. The Concessionaire's request must include the DBE's letter requesting joint checks and a signed request from the Concessionaire, both stating the reason for the joint checks and the approximate number of check that will be needed. The EO Compliance Officer will respond to the request within five (5) Business Days from the receipt of joint check request. All approved joint checks will be monitored closely to avoid abuse and to ensure that the DBE is performing a commercially useful function.
- 2.12 Monthly Reporting. On a monthly basis, the Concessionaire must submit a report to the EO Compliance Officer which documents the following for the month:
- (a) Prompt payment to all Sub-Contractors, subconsultants and suppliers: List all firms that have participated/are participating on the contract to date; identify whether the firm is a DBE; Describe the work performed by the firm; List the amount and date of the last invoice received from the firm; List the amount and date of the latest payment

EXECUTION VERSION

made to the firm; List the total-to-date payments to the firm; State whether the contract or agreement has been fulfilled; State whether retainage has been released.

- (b) The Concessionaire 's estimated current DBE participation;
 - (c) Requests for modifications to its DBE Performance Plan; and
 - (d) Summaries of good faith efforts conducted by the Concessionaire during the month; and
 - (e) Any concerns regarding its carrying-out the DBE Performance Plan or working with DBEs.
- 2.13 Web Reporting. The Concessionaire shall post and update at least once per month the following on a webpage accessible to the public: current estimated DBE participation (participation by month, by work area, and overall total participation), work areas on the project for which the Concessionaire is seeking Sub-Contractors, subconsultants or suppliers, and any upcoming outreach events.
- 2.14 Final Reports. Semi-annually and at the end of the Phase 2 Construction Work, the Concessionaire must submit a final report for each DBE that participated on the project and has completed its work. The final report must state the work performed, the amount of the work, whether all payments have been made and whether retainage has been released. The final report must be signed by a representative of the Concessionaire and of the DBE. The final report is available as the form provided in Schedule 3 of the Memorandum to Proposer dated January 18, 2013.
- 2.15 Semi-Annual Review. The Concessionaire's representative, the EO Compliance Officer, and a representative from the Civil Rights & Business Resource Center shall meet on a semi-annual basis to review the Concessionaire 's compliance with the DBE Performance Plan and all applicable requirements of 49 CFR Part 26. The Concessionaire shall provide the following at each semi-annual review during the Phase 2 Construction Work:
- (a) A detailed breakdown of the firms that have participated on the project, the work that has been performed and the amount paid to date. The Concessionaire should maintain and have available all supporting documentation including the contract, agreement or purchase order, invoices, and monthly reports.
 - (b) An assessment of DBE participation to date and anticipated participation in the next six months.
 - (c) Any other documentation requested by the EO Compliance Officer.
- 2.16 Abuse, Fraud and Misrepresentation. DBE firms which fail to perform a commercially useful function consistent with 49 CFR Part 26 or operate in a manner which is inconsistent with the intent of the DBE program may be subject to revocation of certification. Any intended or actual subcontracting arrangement which is contrived to artificially inflate DBE participation is not allowed. If the Civil Rights & Business Resource Center determines a contractor was a knowing and willing participant in a business arrangement determined by the Civil Rights & Business Resource Center to be unallowable, or if the contractor engages in repeated

EXECUTION VERSION

violations, falsification or misrepresentation, the Civil Rights & Business Resource Center may:

- (a) Assess sanctions based upon failure to meet the DBE Contract Goal;
 - (b) Withhold progress payments commensurate with the violation(s);
 - (c) Suspend bidding privileges or seek debarment in accordance with CDOT's Bid Rules; and/or
 - (d) Refer the matter to the Office of Inspector General of the US Department of Transportation for investigation.
- 2.17 Calculation of Participation and the DBE Contract Goal. Total eligible DBE participation will be verified by the Civil Rights & Business Resource Center and the EO Compliance Officer at each semi-annual review and upon final evaluation of the design-build portion of the project. The dollar value of the DBE Contract Goal shall be calculated based upon the final cost of the Phase 2 Construction Work including change orders and other modifications.
- 2.18 Failure to Meet the DBE Contract Goal. HPTE will impose sanctions for failure to meet the Contract Goal. Sanctions will be equal to the final dollar amount of the DBE Contract Goal less the amount of eligible DBE participation on the project. If the EO Compliance Officer and the Civil Rights & Business Resource Center determine that the Concessionaire demonstrated reasonable and necessary good faith efforts to meet the DBE Contract Goal, they may reduce or waive sanctions. Quantity under-runs, project changes, or other unexpected occurrences outside the control of the Concessionaire will be considered when determining the total amount of the sanctions.
- 3. Emerging Small Business Program Incentive**
- 3.1 Incentive. The Concessionaire shall be eligible for a fifty thousand dollar (\$50,000) incentive for each one percent (1%) of qualifying Emerging Small Business (ESB) participation on the Phase 2 Construction Work. The maximum possible incentive is one-hundred fifty thousand dollars (\$150,000). The Concessionaire must meet the DBE Contract Goal in order to be eligible for the ESB incentive.
- 3.2 Calculation. The incentive shall be calculated at the end of the Phase 2 Construction Work and shall include all changes orders and modifications which occur throughout the project. The incentive is based upon increments of one percent and no incentive shall be provided for portions of a percent which do not result in a full percentage increase (i.e. one and half percent will only result in a maximum possible incentive of \$50,000).
- 3.3 Eligible ESBs: All ESBs that are eligible to count toward the incentive are listed on the ESB Directory on the CDOT website at:
- 3.4 <http://coloradoesb.org/>
- 3.5 Submission of Subcontracting Plan with Proposal. In order to be eligible for the ESB financial incentive, the Proposer must submit an ESB Subcontracting Plan with its Proposal. The plan must outline the areas of work for which the Proposer intends to seek ESB participation and the approximate dollar amount for each such area.

EXECUTION VERSION

- 3.6 Responsibility of the Concessionaire. The Concessionaire shall exercise its own judgment in selecting any ESB to participate in the project. The Concessionaire is solely responsible for verifying the certification of ESBs it intends to use prior to entering into a subcontract.
- 3.7 Eligible Participation. ESB participation on the contract shall be calculated in the same manner as DBE participation (See 1.8).
- 3.8 Reporting. The Concessionaire must include ESB participation in all monthly reports (See 1.15) and provide Final Reports for all ESBs (See 1.17).
- 3.9 Participation from ESB/DBE Firms. Participation by an ESB that is also a DBE shall count as qualifying ESB participation for up to two percent (2%) of the design-build portion of the project. Therefore if the Concessionaire selects an ESB/DBE to perform work on the project, such work shall count toward the DBE goal and the ESB incentive.
- 3.10 Updated Subcontracting Plan. When the subcontracting plan significantly changes and not less than once every six months, in accordance with the contractor's DBE semi-annual review, the Concessionaire must submit to the EO Compliance Officer and post on its website an updated subcontracting plan which shows the areas of work and approximate amounts of such work for which the Concessionaire is still seeking ESB participation on the project.
- 3.11 Web Reporting. On a monthly basis, the Concessionaire shall post on a webpage accessible to the public the current estimated ESB participation by month and by work area and the to-date total ESB participation

Appendix 1 to Schedule 13, Part 3



Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

March 26, 2013

Attn: Brian Clark
Plenary Group
400 Burrard Street, Suite 2000
Vancouver, BC V6C 3A6

Re: US 36 Managed Lanes Toll Concession Project

Subj: Response to HPTE's 3-25-13 questions regarding DBE Performance Plan

Dear Mr. Clark:

This is in response to the request for clarifications received from HPTE yesterday.

Item #1 - DBE Trucking

We have verified that the dollars committed to the DBE trucking firms by Ames/Granite and our subcontractors are 100% associated with work performed by the DBE firms themselves, and not "non-DBE" subcontractors to those firms. Please note that the DBE trucking commitments identified in our DBE Performance Plan represent only a small portion – less than 25% - of the total trucking costs anticipated for the project.

Item #2A – Vine Laboratories – Geotechnical drilling

We have discussed HPTE's comments with our design team, and have expanded the planned scope of Vine's participation to include much of the materials testing required during geotechnical design as well as the subsurface exploration drilling required to obtain the test samples. A revised acknowledgement letter from Vine identifying the modified scope of work is attached.

Item #2B – Vine Laboratories – Construction Inspection

We are confused by HPTE's reluctance to allow Vine to perform construction inspection services. As indicated in their current CDOT prequalification, one of the specialty areas in which they are prequalified is "Code MC - Engineering Management (Construction)". We have attached a copy of their current CDOT prequalification letter that identifies the work they are prequalified to perform. Traditionally, construction inspection is a major element of the work included in the Engineering Management (Construction) category.

We have discussed HPTE's objection with our QA subcontractor, Ground Engineering Consultants. As a result, if necessary, they are willing to modify the allocation of work responsibilities so that Vine's participation is restricted solely to materials testing. A revised commitment letter for this modified scope of work is attached.

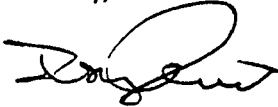
Item #2C – Further Discussions with HPTE

While we feel the above measures address HPTE's concerns, we commit to continuing discussions with HPTE and the CDOT DBE Office if the PRD-Ames/Granite team is selected as the Preferred Proposer. These discussions will be particularly helpful in quickly agreeing on an acceptable approach for the construction inspection activities (Item 2B above) that does not prevent Vine from performing work activities that they are prequalified to perform.

The Ames/Granite team confirms that if Plenary Roads Denver is selected as the Preferred Proposer, the final DBE Performance Plan to be included as part of Schedule 13 to the Concession Agreement will contain such changes in a form acceptable to CDOT as soon as possible after selection of the Preferred Proposer, but in any event, no later than twenty (20) days following selection of the Preferred Proposer.

Please let me know if there are any further questions.

Sincerely,



Tony R. Ames
Authorized Representative

Enclosures:

- Form 19 – DBE Performance Plan (3-26-2013 revision)
- Vine revised acknowledgement – Geotechnical design testing and drilling scope clarification
- Vine revised acknowledgement – Construction materials testing clarification
- Vine CDOT prequalification letter

DBE PERFORMANCE PLAN FOR PHASE 2 CONSTRUCTION WORK OF US 36

FEBRUARY 11, 2013

Form 19 – DBE Performance Plan

Part 1 – DBE Officer Information	
Name: Ernie Green	Title: Ames-Granite JV Project Manager
Phone: 303-404-7000	Email: erniegreen@amesco.com

Part 2 – Business Specific Commitments (Attach written confirmation from each DBE)						
A. Design						
Firm Name	Work Items	Estimated Performance Dates	Commitment Amount	Eligible Amount*	Eligible Percent	
Clanton Engineering, Inc.	Roadway/Pedestrian Lighting Design	10/15/13 – 4/31/14	\$110,000	\$110,000	0.09%	
Entitlement and Engineering Solutions, Inc.	Cadd Services and Documentation Control	10/30/13 – 6/31/14	\$235,000	\$235,000	0.19%	
HCL Engineering & Surveying, LLC	Design Surveying	10/30/13 – 6/31/14	\$180,000	\$180,000	0.15%	
Pinyon Environmental, Inc.	Environmental Design and Compliance	10/15/13 – 10/31/15	\$495,000	\$495,000	0.41%	
PKM Design Group, Inc.	Aesthetic/Landscape Design	10/15/13 – 4/30/14	\$45,000	\$45,000	0.04%	
Vine Laboratories, Inc. (through HDR/Kleinfelder)	Geotechnical Laboratory Services	10/13/12-4/30/14	\$88,000	\$88,000	0.07%	
Clear Creek Trucking Co, Inc.	Aggregate Hauling	10/13 – 12/15	\$450,000	\$450,000	0.37%	
Vialpando Trucking Ltd.	Aggregate Hauling	10/13 – 12-15	\$150,000	\$150,000	0.12%	
Ralph Martinez Trucking, Inc.	Aggregate Hauling	10/13 – 12/15	\$150,000	\$150,000	0.12%	
Jalisco International, Inc.	Monotube Signs and I-25 Bridge Deck Rehabilitations	10/13 – 12/15	\$7,323,510	\$7,323,510	6.03%	
Rocky Mountain Flaggng, Inc.	Traffic Control	10/13 – 12/15	\$1,397,257	\$1,397,257	1.15%	
Vine Laboratories (through Ground Engineering Consultants, Inc.)	QA Materials Testing Services	10/13 – 12/15	\$361,000	\$361,000	0.30%	
Hartwig & Associates, Inc. (through Ground Engineering Consultants, Inc.)	QA Inspection Services	10/13 – 12/15	\$116,000	\$116,000	0.10%	
Tom Calabrese Trucking, Inc.	Aggregate Hauling	10/13 – 12/15	\$338,000	\$338,000	0.28%	
J.F.W. Corp.	Aggregate Hauling	10/13 – 12/15	\$338,000	\$338,000	0.28%	
P.A.A. Contractors, Inc.	Concrete Bikepath, Curb/Gutter, Sidewalk and Median Patterned Concrete	10/13 – 12/15	\$1,691,619	\$1,691,619	1.39%	
Light Speed Integrated Communications, LLC	Fiber Optic Cable & Equipment Subcontractor for ITS	10/13 – 12/15	\$700,000	\$700,000	0.58%	
Subtotal			\$14,168,386	\$14,168,386	11.67%	

* Calculation of Eligible DBE Payments	Supplier - Manufacturer	Supplier - Regular Dealer	Lower Tier Subcontract	Trucking
	100% of Contract Amount	Contract Amount x 60%	Eligible contract amount less subcontracts to non-DBEs	Contract amount less any non-DBE performance

** Eligible Percent = Eligible Amount/Total Estimated Cost for Phase 2 Construction Work

Part 4 - Pre-Award Good Faith Efforts (Required when commitments do not meet Contract Goals)

Current commitments exceed Contract goals.

Part 5 - Post-Award Good Faith Effort Strategy

Current commitments exceed Contract goals.

I declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are complete, true and accurate and that I have the authority to commit my company to statements made herein. Further, I understand and agree that if my company is awarded the contract for this project, it will comply with all requirements of Schedule 13 of the Contract, shall not discriminate on the basis of race, color, national origin, or sex, and shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure to carry out these requirements will be a Concessionaire Default.

Representative Printed Name: Tony Ames

Representative Signature:



Title: Authorized Representative -
Ames-Granite Joint Venture

Date: 3-26-2013



March 25, 2013

Subject: Letter of Acceptance, US 36 Phase II project

Ames/Granite
Mr. Tom Flick, P.E.
18450 East 29th Avenue
Aurora, Colorado 80011

Dear Mr. Flick,

Vine laboratories, Inc. (VINE) is pleased be a member of your team provide materials testing and associated drilling services for geotechnical design on the US 36, Phase II Project. It is our understanding that our initial contract amount is \$88,000.00. VINE is a certified MWBE (Minority Woman-owned Business Enterprise), ESB (Emerging Small Business) and an SBE (Small Business Enterprise with CDOT, City & County of Denver and RTD) and a DBE (Disadvantaged Business Enterprise). We are prequalified with CDOT.

If you have any questions or need further information, please do not hesitate to contact me.

Sincerely,


Amy R. Norwood, President



Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Vine Laboratories, Inc.

Certification #/Expiration Date: 8023

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope:

Quality Assurance Materials Testing Services for US 36 Design Build Phase 2.

Anticipated Contract Amount: \$361,000.00

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:

DBE Firm: Vine Laboratories, Inc.

By: Amy Norwood

Printed Name: Amy Norwood

Title: President

Date: February 6, 2013

Address: 4700 National Western Drive

Denver, Colorado 80216

Acknowledgement by:

Subcontractor: Ground Engineering Consultants, Inc.

By: Thomas L. Buelt

Printed Name: Thomas L. Buelt

Title: Senior Project Manager

Date: February 6, 2013

Acknowledgement by:

Ames/Granite Joint Venture

By: Tony Ames

Printed Name: TONY AMES

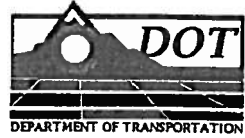
Title: AUTHORIZED REPRESENTATIVE

Date: MARCH 26, 2013

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

Contracts & Market Analysis Branch
4201 East Arkansas Avenue
Denver, Colorado 80222
(303) 757-9736
(303) 757-9868 FAX



February 28, 2013

Vine Laboratories, Inc.
4700 National Western Drive, Unit A
Denver, CO 80216

Attention: Amy R. Norwood E: anorwood@vinelaboratories.com P: 303-662-1166

Your Architect/Engineer Questionnaire received by this office on **February 27, 2013**, has been reviewed by the Colorado Department of Transportation. Based on this review, we have approved your firm for posting on our list of prequalified consultants with the following specialties:

Civil Engineering (CE)
Engineering Management (Contract Administration) (MA)
Engineering Management (Construction) (MC)
Geological Engineering (GL)
Geotechnical Engineering (GE)
Materials Testing (MT)
Soils Engineering (SO)

The expiration date of your prequalification is **March 31, 2014**.

Prequalification must be reviewed annually. When your firm renews its prequalification, a new questionnaire should be completed, or your existing questionnaire should be updated, and submitted prior to 10 days of the above expiration date. As a prequalified consultant, your firm is authorized to be considered in the CDOT process of "Obtaining Professional Consultant Services." When CDOT determines the need for consultant services, an **Invitation for Consultant Services** is published in the Thursday edition (Legal Notice Section) of The Daily Journal. Details for the submittal of a **Statement of Interest** are contained in the advertisement.

Our website, <http://www.dot.state.co.us/Consultants/>, also posts all professional services advertisements and related Statement of Interest (SOI) requirements.

Feel free to contact this office at (303) 757-9306 with any questions regarding your prequalification of the CDOT Consultant Services Process. Thank you for offering your services.

Sincerely,

For
Bernhardt K Rasmussen
Program Manager, Engineering Contracts
(303) 757-9400 phone
(303) 757-9868 fax
Bernie.Rasmussen@state.co.us





HFTE

DBE PERFORMANCE PLAN FOR PHASE 2 CONSTRUCTION WORK OF US 36

FEBRUARY 11, 2013

Form 19 - DBE Performance Plan

Part 1 - DBE Office Information	
Name: Emile Green	Title: Ames-Granite JV Project Manager
Phone: 303-404-7000	Email: emtegreen@amesco.com

Part 2 - Business Specific Commitments (Attach written confirmation from each DBE)					
A. Design					
Firm Name	Work Items	Estimated Performance Dates	Commitment Amount	Eligible Amount*	Eligible Percent
Clanton Engineering, Inc.	NAICS 541330 - Electrical Engineering Services	10/15/13 - 4/31/14	\$110,000	\$110,000	0.08%
Entitlement and Engineering Solutions, Inc.	NAICS 541330 - Civil Engineering and NAICS 541340 - Drafting Services	10/30/13 - 6/31/14	\$235,000	\$235,000	0.19%
HCL Engineering & Surveying, LLC	NAICS 541330 - Civil Engineering Services, NAICS 541340 - Drafting Services, NAICS 541370 - Land Surveying Services	10/30/13 - 6/31/14	\$180,000	\$180,000	0.15%
Plynon Environmental, Inc.	NAICS 541330 - Environmental Engineering Services	10/15/13 - 10/31/15	\$495,000	\$495,000	0.41%
PKM Design Group, Inc.	NAICS 541320 - Landscape Architectural Services	10/15/13 - 4/30/14	\$45,000	\$45,000	0.04%
Vine Laboratories, Inc. (through HDR/Kleinfelder)	NAICS 541380 - Geotechnical Testing	10/13/12-4/30/14	\$88,000	\$88,000	0.07%
Clear Creek Trucking Co, Inc.	NAICS 484220 - Gravel Hauling, Local	10/13 - 12/15	\$450,000	\$450,000	0.37%
Visipando Trucking Ltd.	NAICS 484220 - Gravel Hauling, Local	10/13 - 12-15	\$150,000	\$150,000	0.12%
Ralph Martinez Trucking, Inc.	NAICS 484220 - Gravel Hauling, Local	10/13 - 12/15	\$150,000	\$150,000	0.12%
Jalisco International, Inc.	NAICS 237310 - Sign Erection Highway, Roads or Bridge	10/13 - 12/15	\$7,323,510	\$7,323,510	6.03%
Rocky Mountain Flaggging, Inc.	NAICS 237310- Bridge Decking Construction	10/13 - 12/15	\$1,397,257	\$1,397,257	1.15%
Vine Laboratories (through Ground Engineering Consultants, Inc.)	NAICS 56199 - Flaggging (I.E. Traffic Control) Services	10/13 - 12/15	\$361,000	\$361,000	0.30%
Hartwig & Associates, Inc. (through Ground Engineering Consultants, Inc.)	NAICS 541380 - Geotechnical Testing Laboratories or services	10/13 - 12/15	\$116,000	\$116,000	0.10%
Tom Calabrese Trucking, Inc.	NAICS 541330 - Civil Engineering Services	10/13 - 12/15	\$338,000	\$338,000	0.28%
J.F.W. Corp.	NAICS 484220 - Dump Trucking, Gravel Hauling	10/13 - 12/15	\$338,000	\$338,000	0.28%
P.A.A. Contractors, Inc.	NAICS 238990 - Sidewalk Construction, Residential and Commercial	10/13 - 12/15	\$1,691,619	\$1,691,619	1.39%
Light Speed Integrated Communications, LLC	NAICS237130 - Fiber Optic Cable Transmission Line Construction	10/13 - 12/15	\$700,000	\$700,000	0.58%
Subtotal			\$14,168,386	\$14,168,386	11.67%

* Calculation of Eligible DBE Payments		Supplier - Manufacturer/ 100% of Contract Amount		Supplier - Regular Dealer Contract Amount x 60%		Broker or Agent Only actual compensation retained by the DBE broker or agent		Lower Tier Subcontract Eligible contract amount less subcontracts to non-DBEs		Trucking DBE Contract amount less any non-DBE performance	

** Eligible Percent = Eligible Amount/Total Estimated Cost for Phase 2 Construction Work

DBE PERFORMANCE PLAN FOR PHASE 2 CONSTRUCTION WORK OF US 36

Part 4 - Pre-Award Good Faith Efforts (Required when Commitments do not meet Contract Goals)

Current commitments exceed Contract goals.

Part 5 - Post-Award Good Faith Effort Strategy

Current commitments exceed Contract goals.

I declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are complete, true and accurate and that I have the authority to commit my company to statements made herein. Further, I understand and agree that if my company is awarded the contract for this project, it will comply with all requirements of Schedule 13 of the Contract, shall not discriminate on the basis of race, color, national origin, or sex, and shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure to carry out these requirements will be a Concessionaire Default.

Representative Printed Name: Tony Ames

Representative Signature: *Tony Ames*

Title: Authorized Representative -
Ames-Granite Joint Venture

Date: 2-28-2013

HDR Engineering, Inc. (HDR) is committed to diversity within our own offices and when we are selecting Teaming Partners. HDR has not only met, but exceeded DBE goals on other projects performed for CDOT. We embrace diversity internally and throughout the community.

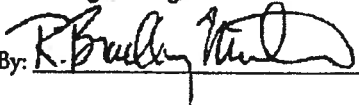
As part of our proposal for the Phase 2 US 36 Toll Concession Design-Build Project, HDR has made a commitment to enter into a Subcontract with the DBE firms identified in the following table.

Table 1 – DBE Participation for Design

US 36 Managed Lanes Project - Toll Concession Project		
DBE PARTICIPATION FOR DESIGN		
Subcontractor	Anticipated Contract Value	Remarks
Pinyon	\$495,000	Environmental Design and Compliance
Vine (with Kleinfelder)	\$98,000	Geotechnical Laboratory Services
Clanton	\$110,000	Roadway/Pedestrian Lighting Design
HCL	\$180,000	Survey
EES	\$235,000	Cadd Services/Documentation Control
PKM	\$45,000	Aesthetic Design

Should you have any questions regarding our team please do not hesitate to contact us with any questions.

Acknowledgement by:
HDR Engineering, Inc.

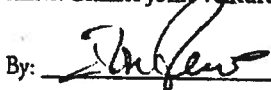
By: 

Printed Name: Brad Martin

Title: Senior Vice President

Date: 2/21/2013

Acknowledgement by:
Ames/Granite Joint Venture

By: 

Printed Name: TONY AMES

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13



Corporate Headquarters
9100 West Jewell Avenue, Suite 200 Lakewood, CO 80232
TEL: 303 980 5200 FAX: 303 980 0089
www.pinyon-enr.com

January 31, 2013

Mr. Tom Flick
Ames/Granite Joint Venture
18450 East 29th Avenue
Aurora, CO 80022

Subject: Letter of Commitment, US 36 Part 2

Dear Mr. Flick:

Pinyon Environmental, Inc. (Pinyon) is pleased to provide Environmental Engineering Services for the Colorado Department of Transportation (CDOT) US 36 Part 2 project for the commitment amount of \$495,000.00.

Pinyon offers extensive environmental experience with transportation projects, including wetlands, threatened and endangered species, permitting, and hazardous materials assessments, as well as in other resource areas. Pinyon also has extensive experience with erosion control and stormwater management plans for CDOT and several municipalities.

Pinyon is a certified DBE, ESB and a woman-owned small business. Our certifications are attached. We appreciate the opportunity to join your team in support of the subject project.

Sincerely,

PINYON ENVIRONMENTAL, INC.

A handwritten signature in black ink, appearing to read "Lauren E. Evans", is written over the typed name and title.

Lauren E. Evans, P.E.
President



January 30, 2013

Subject:
***Letter of Acceptance to Perform as Subconsultant
US 36, Phase II***

Mr. Tom Flick
AMES/Granite
18450 East 29th Avenue
Aurora, CO 80011

Dear Mr. Flick,

Vine Laboratories, Inc. (VINE) is pleased to be a member of your team to perform as a subconsultant for US 36, Phase II project. VINE will provide geotechnical drilling services, in the amount of \$88,000, on the project as required. Vine Laboratories is an emerging small business (ESB), a minority woman- owned business enterprise (MWBE), a small business enterprise (SBE), and disadvantaged business enterprise (DBE).

Sincerely,


Arty R. Norwood, President

Vine Laboratories, Inc.



DENVER
THE MILE HIGH CITY

1/16/2013

Amy Renee Norwood
Vine Laboratories, Inc.
4700 National Western Drive
Unit A
Denver, CO 80216

Office of Economic Development
Division of Small Business Opportunity

201 W. Colfax Ave, Dept 907
Denver, CO 80202
p: 720.913.1999
f: 720.913.1809
www.milehigh.com

Denver International Airport
Airport Office Building, Suite 7810
8500 Peña Boulevard
Denver, CO 80249-6340
p: 303.342.2180
f: 303.342.2190
www.flydenver.com

Dear Amy Renee Norwood:

The City and County of Denver, Division of Small Business Opportunity (DSBO) is in receipt of your renewal application for Vine Laboratories, Inc..

We are extending your certification while your application is in process. Therefore, Vine Laboratories, Inc. will have the following certifications until further notice:

- Airport Concessionaire Disadvantaged Business Enterprise (ACDBE)
- Disadvantaged Business Enterprise (DBE)
- Small Business Enterprise (SBE)
- Small Business Enterprise-Concessions (SBEC)
- Minority/Women Business Enterprise (MWBE)

Review of your documentation will begin in the near future. Please note that at any time during this review, a Certification Analyst may request additional information to complete the review.

Please notify our office immediately, if there are any changes in legal status, management, control, or ownership of your business, contact information, etc, from that provided on the documentation submitted to our office.

If you have any questions, please contact us at (720) 913-1999 or via email at certificationinfo@denvergov.org. Thank you.

Sincerely,

Bridget Tetteh
Certification Team
certificationinfo@denvergov.org
(720) 913-1714

311
for City Services
Denver gets it done!


February 1, 2013

**Ames/Granite Joint Venture
Attn: Tom Flick
18450 East 29th Avenue
Aurora, CO 80011**

**Clanton & Associates, Inc.
4699 Nautilus Ct. So. #102
Boulder, CO 80301**

RE: US 36 Part 2 Project

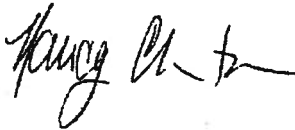
Dear Mr. Flick,



Thank you for including Clanton & Associates, Inc. on the Ames/Granite Joint Venture team for this proposal. We will be committed to support the team with professional services for electrical engineering services the US 26 Part 2 Project for the commitment of \$110,000.

Clanton & Associates, Inc. has been in business for 31 years and is certified as a Disadvantaged Business Enterprise.

Sincerely,



**Nancy Clanton, PE
President**



9570 Kingston Court, Suite 310
Englewood, CO 80112
PH: (303) 773-1605
FAX: (303) 773-3297
www.hclengineering.com

January 25, 2013

Ames/Granite Joint Venture
Attn: Tom Flick
18450 East 29th Avenue
Aurora, CO 80011

RE: US 36 Managed Lane/BRT Phase II Project

Dear Mr. Flick:

HCL Engineering & Surveying, LLC (HCL) is pleased to be a part of the Ames/Granite Joint Venture for the US 36 Managed Lane BRT Phase II Design Build Project. The company is prequalified with CDOT in general civil engineering, structural engineering and land surveying, NAICS Codes 541330 and 541370 respectively. HCL is a Disadvantaged Business Enterprise (DBE) (Certification No. 7524, expiration date October 5, 2012, extended date TBD) certified by the City and County of Denver. In addition, HCL is certified as an Emerging Small Business with CDOT (Certificate No. S3947).

HCL will support the Ames/Granite Joint Venture for the following services at the initial contract value listed below:


- Services to be provided: Civil Engineering Services, Drafting Services, Land Surveying Services
- The dollar amount of the commitment is \$180,000.00

We offer highly skilled and motivated individuals, bringing depth to the firm and currently have a staff 21 professionals. HCL has the necessary resources to compliment the Ames/Granite Joint Venture on this project.

- ▲ **Previous Project Experience** ...experience similar in scope and complexity in areas of civil/structural engineering and surveying for municipal governments
- ▲ **A Proven Track Record** ...successfully completing numerous roadway projects and familiarity with the CDOT's standards and criteria
- ▲ **Experienced Staff** ...offering professionals with more than 100 years of combined experience who are capable of a full range of technical services
- ▲ **Response and Availability** ...a local team of professionals who are available and committed from start to finish and capable of all necessary project coordination and communication

We appreciate your interest in our services and welcome the opportunity to discuss how we can be of service to Ames/Granite Joint Venture to meet the project requirements. Please contact me at (303) 773-1605 should you have any questions. We look forward to hearing from you soon.

Sincerely,



David Ferreira, P.E.
HCL ENGINEERING & SURVEYING, LLC



DENVER
THE MILE HIGH CITY

10/4/2012

Jasper L. Herrera
HCL Engineering & Surveying, LLC
9570 Kingston Court., Suite 310
Englewood, CO 80112-6004

Office of Economic Development
Division of Small Business Opportunity

201 W. Cofax Ave, Dept 907
Denver, CO 80202
p: 720.913.1999
f: 720.913.1809
www.milehigh.com

Denver International Airport
Airport Office Building, Suite 7810
8500 Peña Boulevard
Denver, CO 80249-6340
p: 303.342.2180
f: 303.342.2190
www.flydenver.com

Dear Jasper L. Herrera:

The City and County of Denver, Division of Small Business Opportunity (DSBO) is in receipt of your renewal application for HCL Engineering & Surveying, LLC.

We are extending your certification while your application is in process. Therefore, HCL Engineering & Surveying, LLC will have the following certifications until further notice:

- Airport Concessionaire Disadvantaged Business Enterprise (ACDBE)
- Disadvantaged Business Enterprise (DBE)
- Small Business Enterprise (SBE)
- Small Business Enterprise-Concessions (SBEC)
- Minority/Women Business Enterprise (MWBE)

Review of your documentation will begin in the near future. Please note that at any time during this review, a Certification Analyst may request additional information to complete the review.

Please notify our office immediately, if there are any changes in legal status, management, control, or ownership of your business, contact information, etc, from that provided on the documentation submitted to our office.

If you have any questions, please contact us at (720) 913-1999 or via email at certificationinfo@denvergov.org. Thank you.

Sincerely,

Bridget Tetteh
Certification Team
certificationinfo@denvergov.org
(720) 913-1714

311
for City Services
Denver gets it done!

HCL Engineering & Surveying, LLC

Certification #7524

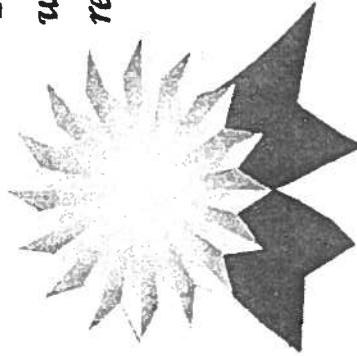
Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR, Parts 23 and 26 and administered by Colorado's UCP.

Work Codes

- Denver-40103: Highway and Street
- Denver-40104: Water, Sewer, Pipeline
- Denver-402: Drafting/CAD Services
- Denver-405: Engineering-Civil
- Denver-410: Engineering-Hydrology/Hydraulics
- Denver-412: Engineering-Roadway Design
- Denver-413: Engineering-Structural
- Denver-415: Inspection Services
- Denver-416: Land Surveyors

Certification Date: February 19, 2009 – October 5, 2012

This certification expires on the aforementioned date. A new certificate will be issued ending every 3rd year, upon successfully meeting annual renewal requirements.



Jamela Lee
Jamela Lee, Director

UCP Partner at City and County of Denver

10/14/11
Date

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION
Center for Equal Opportunity
4201 East Arkansas Avenue, Room 200
Denver, Colorado 80222
Phone: (303) 757-8234
Fax: (303) 757-8058



January 18, 2012

Mr. Jasper Herrera
HCL Engineering and Surveying, LLC
9570 Kingston Ct., Suite 310
Englewood, CO 80112

RE: ESB Certification Number #S3947

Dear Mr. Herrera:

Congratulations! We have reviewed your firm's application for certification in the Colorado Department of Transportation (CDOT) Emerging Small Business (ESB) Program and determined that, HCL Engineering and Surveying, LLC meets the minimum certification criteria.

Your certification number is S3947. HCL Engineering and Surveying, LLC has been certified as a Level 2 for the following ESB work codes:

- 541330.02
- 541330.03
- 541330.10
- 541340.01
- 541370.01
- 541370.02
- 541370.03

Except for when your firm serves as a prime contractor or prime consultant, only work performed within the above listed work codes will count as ESB participation. If you feel that your firm is entitled to additional or different work codes, please contact us to discuss such work codes with an analyst.

It is your responsibility to ensure that your file remains current and that renewal documentation is provided to CDOT as required. If there are any changes to the material information provided in your application, including ownership status and/or basic qualifications for the work codes listed above, you must notify CDOT within thirty days of such change.

Your renewal month is JANUARY, which means that all renewal documentation, including the Renewal Affidavit and your tax returns, must be provided to the Center for Equal Opportunity by the end of JANUARY each year.

We look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Williams".

Katherine Williams, Small Business Civil Rights Specialist
Center for Equal Opportunity
Colorado Department of Transportation



EES

**Entitlement and Engineering
Solutions, Inc**

January 29, 2013

Mr. Tom Flick
Ames/Granite Joint Venture
18450 East 29th Avenue
Aurora, CO 80011

Dear Mr. Flick:

Entitlement and Engineering Solutions, Inc. (EES) is pleased to be a part of the Ames/Granite Joint Venture team for Phase 2 of the US 36 Managed Lane BRT Design-Build Project. EES is prequalified with the Colorado Department of Transportation and is certified as DBE, SBE, M/WBE and ESB.

The scope identified for EES includes civil engineering and drafting services for the commitment amount of \$235,000.

We look forward to this opportunity to further support CDOT on this project.

Sincerely,

Amanda O'Connor, PE, LEED® AP
President



January 28, 2013

Tom Flick
Ames/Granite Joint Venture
18450 East 29th Avenue
Aurora, CO 80011

RE: US 36 Phase 2

Dear Tom,

Thank you very much for asking PKM Design Group, Inc. to be part of your team for the US 36 Phase 2 effort. We are happy to provide you with support in landscape architectural services with a dollar commitment of \$45,000 in fees.

PKM Design Group, Inc. is a woman-owned firm, currently certified by the Colorado State Department of Regulatory Agencies as a Disadvantaged Business Enterprise (DBE). Our certificate and renewal letter are attached.

I appreciate the opportunity to be a team member again with the Ames/Granite Joint Venture, and look forward to working with you and your group again on this project.

Sincerely,

A handwritten signature in black ink that reads 'Patricia K. Miers'. The signature is written in a cursive, flowing style.

Patricia K. Miers
President
PKM Design Group, Inc.

urban design | landscape architecture | environmental assessment

7353 S. Alton Way, Suite 125 Centennial, Colorado 80112
phone 303.804.0080 fax 303.804.0070 website www.pkmdg.com



DENVER
THE MILE HIGH CITY

July 27, 2012

Patricia Miers
PKM Design Group, Inc.
7353 S. Alton Way, Suite 125
Centennial, CO 80112

Dear Patricia Miers:

The Division of Small Business Opportunity is pleased to inform you that PKM Design Group, Inc. is certified as a Disadvantaged Business Enterprise (DBE) pursuant to the US Department of Transportation's Regulation 49 CFR Part 26. Your firm will be listed on the Colorado Unified Certification Program's (UCP) on-line directory of eligible DBEs at www.coloradodbe.org.

PKM Design Group, Inc. is eligible to participate as a DBE on US Department of Transportation financially-assisted projects in Colorado in the work codes appearing as part of your firm's listing on the directory as eligible to be counted toward DBE participation. It is your responsibility to manage your firm's work codes to ensure they are correct.

CO UCP NAICS-237110: IRRIGATION SYSTEM CONSTRUCTION
CO UCP NAICS-237310: CONSTRUCTION MANAGEMENT, HIGHWAY, ROAD, STREET AND BRIDGE
CO UCP NAICS-541320: LANDSCAPE ARCHITECTURAL SERVICES
CO UCP NAICS-541340: DRAFTING SERVICES
CO UCP NAICS-541620: ENVIRONMENTAL CONSULTING SERVICES
CO UCP NAICS-541910: MARKETING RESEARCH AND PUBLIC OPINION POLLING

The anniversary date of your firm's DBE certification is July 25, 2013. You will be notified prior to the anniversary date that eligibility must be re-evaluated. However, if you do not receive notification from this office, it is your responsibility to contact us. Pursuant to 49 CFR 26.83(l), submittal of this information is required to ensure that there is no interruption of your firm's status as a certified DBE. If any changes occur in the firm's legal structure, ownership, management, control, or work performed, you must notify the division immediately.

Sincerely,

Chris Martinez
Director
CM/mw

Office of Economic Development
Division of Small Business Opportunity

201 W. Colfax Ave. Dept 907
Denver, CO 80202
p: 720.913.1999
f: 720.913.1809
www.milehigh.com

Denver International Airport
Airport Office Building, Suite 7810
8500 Peña Boulevard
Denver, CO 80249-6340
p: 303.342.2180
f: 303.342.2190
www.flydenver.com

**PKM Design Group, Inc.
Certification #7287**

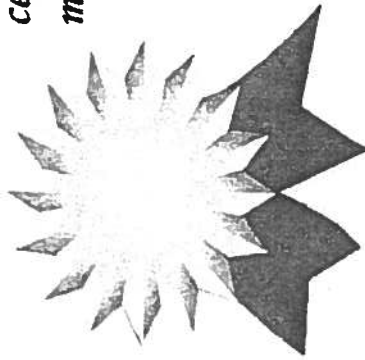
Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR Parts 23 and 26 and administered by Colorado's UCP.

Work Codes

- Denver-22201: Irrigation Design
- Denver-40103: Highway and Street
- Denver-402: Drafting/CAD Services
- Denver-417: Landscape Architecture
- Denver-50301: Environmental Impact Services
- Denver-50304: Environmental Assessments
- Denver-50307: Wetland Consulting
- Denver-513: Public Involvement and Hearings

Certification Date: DBE February 25, 2010 – February 24, 2013

This certification expires on the 25th day of February 2013. A new certificate will be issued ending every 3rd year, upon successfully meeting annual renewal requirements.



Tamela Lee, Director

UCP Partner at City and County of Denver

02/25/10

Date

Ames/Granite Joint Venture

18430 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Clear Creek Trucking Co, Inc

Certification #/Expiration Date: 7412 - August 1, 2013

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope: Aggregate Hauling - NAICS-484220 - Gravel Hauling, Local

Anticipated Contract Amount: \$450,000

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgment by:
DBE Firm: Clear Creek Trucking
By: Jennifer Haisler
Printed Name: JENNIFER HAISLER
Title: Vice President
Date: 02/07/2013
Address: Po Box 16423
Denver CO 80216

Acknowledgment by:
Subcontractor: CASTLE ROCK CONSTR
CO. OF COLO. LLC
By: Ralph Bell
Printed Name: RALPH BELL
Title: CEO
Date: 2/7/13

Acknowledgment by:
Ames/Granite Joint Venture
By: [Signature]
Printed Name: TONY AMES
Title: AUTHORIZED REPRESENTATIVE
Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Vialpando Trucking Ltd.
Certification #/Expiration Date: 8775

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope: Transport of Ag material
NAICS-484220 - Gravel Hauling Local

Anticipated Contract Amount: \$150,000

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:
DBE Firm: Vialpando Trucking
By: [Signature]
Printed Name: STEVEN W. VIALPANDO
Title: President
Date: 2-7-13
Address: 2530 W. 80th Ave
Denver CO 80231

Acknowledgement by:
Subcontractor: CASTLE ROCK CONSTR.
CO. OF COLORADO, LLC
By: [Signature]
Printed Name: RALPH BELL
Title: CEO
Date: 2/7/13

Acknowledgement by:
Ames/Granite Joint Venture
By: [Signature]
Printed Name: TOMY AMES
Title: AUTHORIZED REPRESENTATIVE
Date: 2/20/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Ralph Martinez Trucking, Inc

Certification #/Expiration Date: #7130 March 7, 2013

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope: Aggregate Hauling NAICS- 484220 - Gravel Hauling, Local

Anticipated Contract Amount: \$150,000

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:

DBE Firm: Ralph Martinez Trucking, Inc

By: [Signature]

Printed Name: Dianna Martinez

Title: Director of Sales and Marketing

Date: 2/7/13

Address: 7265 Ivanhoe St.
Commerce City, Co 80022

Acknowledgement by:

Castle Rock Const.

Subcontractor: COI OF COLOR, LLC

By: [Signature]

Printed Name: RALPH BELL

Title: CEO

Date: 2/7/13

Acknowledgement by:

Ames/Granite Joint Venture

By: [Signature]

Printed Name: TONY AMES

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Jalsco International, Inc.

Certification #/Expiration Date: Expires 8/31/13

As part of their proposal for the Phase 2 US 96 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm named above for the following scope of work on the project:

Work Scope: NAICS-237310 - SIGN ERECTION, HIGHWAY, ROADS STREET OR BRIDGE

NAICS-237310 - BRIDGE DECKING CONSTRUCTION

Anticipated Contract Amount: \$ 7,323,510-

Acknowledgement by:

DBE Firm: Jalsco International, Inc.

By: [Signature]

Printed Name: Sipriano Ledezma

Title: President

Date: 2/6/13

Address: 6663 Colorado Blvd
Commerce City CO 80022

Acknowledgement by:

Ames/Granite Joint Venture

By: [Signature]

Printed Name: TONY AMES

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Rocky Mountain Flagging, Inc.

Certification #/Expiration Date: April 5, 2013

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm named above for the following scope of work on the project:

Work Scope: NAICS-561990: Flagging (I.E. (Traffic Control) Services

Anticipated Contract Amount: \$1,397,257.-

Acknowledgement by:

DBE Firm: Rocky Mountain Flagging, Inc

By: Mona Bodaness

Printed Name: Mona Bodaness

Title: President

Date: 2/7/2013

Address: 5380 Tenyson St
Unit E
Denver, CO 80212

Acknowledgement by:

Ames/Granite Joint Venture

By: Tony Ames

Printed Name: TONY AMES

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Vine Laboratories, Inc.

Certification #/Expiration Date: #8023/Expiration t.b.d (please see attached letter)

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope:

Quality Assurance Materials Testing and Inspection Services for US 36 Design Build Phase 2.

NAIC Codes 541380, 541818,

Anticipated Contract Amount: \$381,000

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:

DBE Firm: Vine Laboratories, Inc.

By: *Amy R. Norwood*

Printed Name: Amy R. Norwood

Title: President

Date: February 6, 2013

Address: 4700 National Western Drive #A

Denver, Colorado 80210

Acknowledgement by:

Subcontractor: Ground Engineering Consultants, Inc.

By: *Thomas L. Buel*

Printed Name: Thomas L. Buel

Title: Senior Project Manager

Date: February 6, 2013

Acknowledgement by:

Ames/Granite Joint Venture

By: *Tony Ames*

Printed Name: Tony Ames

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Hartwig & Associates, Inc.

Certification #/Expiration Date: Certification # 7077/ Expires June 2, 2013

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope:

Quality Assurance Inspection Services for the US 36 Design Build Phase 2

CO UCP NAICS Commodity Codes: 236220, 237110, 237310, 237990, 541330, 541340

Anticipated Contract Amount: \$116,000

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:

DBE Firm: Hartwig & Associates, Inc.

By: 

Printed Name: Marvinetta Hartwig

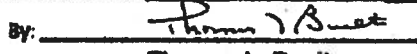
Title: President

Date: February 8, 2013

Address: 188 Inverness Drive West, Suite 675
Englewood, Colorado 80112

Acknowledgement by:

Subcontractor: Ground Engineering Consultants, Inc.

By: 

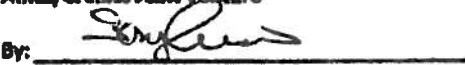
Printed Name: Thomas L. Buell

Title: Senior Project Manager

Date: February 8, 2013

Acknowledgement by:

Ames/Granite Joint Venture

By: 

Printed Name: TONY AMES

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Tom Calabrese Trucking, Inc.

Certification #/Expiration Date: NAICS Code # 484220 Expires May 2, 2013

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope:

NAICS Code # 484220: Dump Trucking, Gravel Hauling,
Sand Hauling, Top-Soil Hauling

Anticipated Contract Amount: \$ 338,000.-

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:

DBE Firm: Tom Calabrese Trucking, Inc. Subcontractor: Robert Lee & Sons

By: Carol Calabrese
Printed Name: Carol Calabrese

Title: President

Date: 2-6-2013

Address: 6441 Osceola Street
Arvada, Co 80003

Acknowledgement by:

By: [Signature]

Printed Name: Ricky Foster

Title: Sales - DC Manager

Date: 2/6/13

Acknowledgement by:

Ames/Granite Joint Venture

By: [Signature]

Printed Name: Tony Ames

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: J.F.W Corp. dba Schlegel & Son Trucking

Certification #/Expiration Date: # 7018 Exp. 10/6/2013

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope:

NAI CS CONES. Aggregate (HAUL) # 484220
GRAVEL & Aggregate # 484220
425120 Wholesale Trade Aggreg. And Products

Anticipated Contract Amount: \$ 338,000.-

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:

DBE Firm: J.F.W. Corp
By: Evelyn J White
Printed Name: Evelyn J White
Title: Pres.
Date: 2/6/2013
Address: 5286 Newport Street
Commerce City, Co. 80022

Acknowledgement by:

Subcontractor: Schlegel & Sons
By: Rich Foster
Printed Name: Rich Foster
Title: Sub-DC Manager
Date: 2/6/13

Acknowledgement by: Ames/Granite Joint Venture

By: Tony Ames
Printed Name: Tony Ames
Title: Authorized Representative
Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: PAA Contractors, Inc.

Certification #/Expiration Date: 8317

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm named above for the following scope of work on the project:

Work Scope: NACIS-238990-Sidewalk Construction, Residential and Commercial

Anticipated Contract Amount: \$1,691,619.-

Acknowledgement by:

DBE Firm: PAA Contractors, Inc.

By: *Priscilla Aguirre*

Printed Name: Priscilla Aguirre

Title: President

Date: February 5, 2012

Address: 1333 W. 120TH Ave, Ste 222

Westminster, CO 80234

Acknowledgement by:

Ames/Granite Joint Venture

By: *Tony Ames*

Printed Name: Tony Ames

Title: Authorized Representative

Date: 2/26/13

Ames/Granite Joint Venture

18450 East 28th Avenue
Aurora, CO 80011
(303) 363-1000

Scope of Work - ITS

Acknowledgement of Commitment to DBE Subcontractor/Supplier

Name of DBE Firm: Light Speed Integrated Communications, LLC

Certification #/Expiration Date: _____

As part of their proposal for the Phase 2 US 36 Toll Concession Design-Build Project, the Ames/Granite Joint Venture has made a commitment to enter into a Subcontract or Material Supply Agreement with the DBE firm identified above for the following scope of work on the project:

Work Scope: NAICS - 237130 FIBER OPTIC CABLE TRANSMISSION LINE CONSTRUCTION

Anticipated Contract Amount: \$700,000.00

This work will be performed as a subcontract to the Subcontractor identified below.

Acknowledgement by:

DBE Firm: Light Speed Integrated Communications, LLC

By: *Slavica Vincze*

Printed Name: Slavica Vincze

Title: President / Managing Member

Date: February 7, 2013

Address: 5549 Strawberry Lane
Castle Rock CO 80108

Acknowledgement by:

Ames/Granite Joint Venture

By: *Tony Ames*

Printed Name: Tony Ames

Title: AUTHORIZED REPRESENTATIVE

Date: 2/26/13

Acknowledgement by:

Subcontractor: Sturgeon Electric Company Inc.

By: *Jim Bushnell*

Printed Name: Jim Bushnell

Title: Colorado Transportation Division Manager

Date: February 7, 2013