

Clay County Agreement/Contract No. 2022/2023 – _____

**AGREEMENT FOR CR 220 AT TOWN CENTER BLVD. INTERSECTION
IMPROVEMENT PROJECT**

This Agreement for CR 220 at Town Center Blvd. Intersection Improvement Project (“Agreement”) is made and entered into as of the ____ day of October, 2022 (“Effective Date”) between Hubbard Construction Company, a Florida Profit Corporation (“Contractor”), and Clay County, a political subdivision of the State of Florida (the “County”).

RECITALS

WHEREAS, on January 18, 2019, the County and the State of Florida Department of Transportation (“Department”) entered into a Local Agency Program Agreement, Clay County Agreement No.: 2018/2019-60, FPN No.: 441213-1-38-02, Department Contract No.: G1536, in relation to the design of various improvements on County Road 220 (CR 220) at the intersection of Town Center Blvd. (referenced as the intersection of Town Center Parkway in the agreements with the Department) in Clay County; and

WHEREAS, on April 14, 2021, the County and the Department entered into a Local Agency Program Agreement, Clay County Agreement No.: 2020/2021-105, FPN Nos.: 441213-1-58-01 and 441213-1-68-02, Department Contract No.: G1W41 (“LAP Agreement”), in relation to the construction and oversight of CEI project management of various improvements on CR 220 at the intersection of Town Center Blvd. in Clay County; and

WHEREAS, the Department has agreed to fund construction of the various improvements on CR 220 at the intersection of Town Center Blvd. via the LAP Agreement, as it may be amended from time to time; and

WHEREAS, the County issued a Request for Bid (Re-Bid), Bid No. 21/22-54 (“Bid”), to solicit and engage a contractor to perform the construction of intersection improvements at CR 220 at Town Center Blvd.; and

WHEREAS, the Contractor responded to the Bid (“Contractor’s Response”) with a proposal to offer the requested services; and

WHEREAS, the County evaluated the proposals submitted, and the County selected the Contractor as the lowest responsive, responsible qualified contractor; and

WHEREAS, the Contractor is licensed and prequalified with the Department to provide the requested services; and

WHEREAS, the parties hereby acknowledge and expressly agree that the terms and conditions of the Bid including all Addendums and Attachments thereto, including, but not limited to, the LAP Supplemental Specifications (Division II), Contract Plans, and Utility Work

Schedule, along with the Contractor's Response apply to this Agreement and are incorporated herein by reference; and

WHEREAS, federal funds provided to the County through the LAP Agreement will be used to fund the services provided under this Agreement; and

WHEREAS, the Contractor desires to provide the services to the County as set forth in this Agreement.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the parties agree as follows:

SECTION 1. THE PROJECT

1.1. The Contractor shall furnish and deliver all material and equipment and perform all the work and labor required to construct the intersection improvements at CR 220 at Town Center Blvd. in accordance with the Contract Plans and LAP Supplemental Specifications (Division II) attached to the Bid (the "Project"). The Project shall include the construction of offset left Turn lanes and associated improvements.

1.2. Federal funds will be used to fund all or a portion of the Project. Performance under the Agreement is subject to 2 C.F.R. Part 200.

1.3. For purposes of the Project, the County Representative shall be Howard Wanamaker, County Manager, and the Project Manager shall be Richard Smith, Director of Engineering, or designee.

SECTION 2. SCOPE OF WORK

2.1. The scope of work to be performed and provided by the Contractor for the Project is set forth in the Bid Scope of Work and Addendum No.1, attached hereto as **Attachment A** (without attachments), the Contract Plans attached to the Bid and Addendum and incorporated herein by reference, the LAP Supplemental Specifications (Division II) attached to the Bid and incorporated herein by reference, and the Contractor's Response incorporated herein by reference. The term "Work" means the scope of work to be provided, services rendered, or supplies, materials, equipment and the like constructed, delivered or installed under this Agreement. The Work includes, but is not limited to, maintenance of traffic, clearing and grubbing, excavation and grading, erosion and sediment control, asphalt paving, drainage, sodding, signalization, signs, and pavement markings.

2.2. In providing the Work, the Contractor must:

- A. Be familiar with the Bid, Contract Plans, Work, deadlines, specifications, requirements, and the conditions under which the Work is to be completed.

- B. Obtain all required permissions, permits, and inspections as applicable.
- C. Submit to the Project Manager a maintenance of traffic plan for pedestrian traffic as may be required and requested by the Project Manager.
- D. Coordinate work days and hours with the Project Manager.
- E. Meet with the Project Manager as arranged by the parties to review the status of the Work, upcoming critical activities, and overall performance of the Project.
- F. Coordinate with the Project Manager all inspection(s). Complete any items on any punch list generated from the inspection(s).
- G. Conduct business in a manner that reflects favorably at all times on the Work and the goodwill and reputation of the County.

2.3. The Contractor and its subcontractors must meet the Department prequalification requirement(s) in the appropriate work classes throughout the term of this Agreement. The Contractor shall submit any new applications or documents as required to the Department to maintain its certificate of qualification with the Department.

2.4. Within ten (10) days of the Effective Date of this Agreement, the Contractor shall provide to the Project Manager for review and approval, a detailed Critical Path Method (CPM) schedule for the Work showing completion of the Work within the required timeframe (“Project Schedule”). The Project Schedule may otherwise be updated as necessary, but the Contractor may not make material changes without the Project Manager’s prior written approval. The approval of the Project Schedule by the County in no way attests to the validity of the assumptions, logic constraints, dependency relationships, resource allocations, manpower and equipment, and any other aspect of the proposed schedule. The Contractor is and shall remain responsible for the planning and execution of the Work in order to timely complete the Project as set forth herein. The Contractor shall provide to the Project Manager monthly reports and updates on the progress of the Work in accordance with the Project Schedule.

2.5. Within thirty (30) calendar days after reaching substantial completion of the Project, the Contractor and the County shall develop a list of items in accordance with Section 255.077, Florida Statutes required to render the Project complete, satisfactory, and acceptable (“Punch List”). As used herein substantial completion shall mean the achievement of beneficial occupancy or use of the Project. Upon completion of all items on the Punch List, the Contractor may submit a payment request for all remaining retainage withheld by the County as described in Section 6. All items that require correction under the Agreement and that are identified after the preparation and delivery of the Punch List remain the obligation of the Contractor.

2.6. In entering into this Agreement, the Contractor represents that it now has or will secure all equipment and personnel required to perform the Work under this Agreement. The Contractor shall assign such personnel as are necessary to assure faithful prosecution and timely delivery of

the Work pursuant to the requirements of this Agreement. The Contractor shall ensure that the personnel assigned to perform the Work comply with the terms of this Agreement, have current licenses and permits required to perform the Work, and are fully qualified and capable to perform their assigned tasks. The Contractor shall submit in writing to the Project Manager the names of key personnel assigned to the Project.

2.7. The Contractor shall perform the Work using the degree of care and skill ordinarily exercised by like professionals performing the same services under the same conditions in the same geographic area and in compliance with all applicable laws (“Standard of Care”).

2.8. The parties agree that the County shall retain the absolute right to eliminate any or all Work associated with the Project without penalty or liability for any claims for anticipated overhead or profits.

2.9. The County may conduct performance evaluations at any time during performance of the Work or soon after the completion of any Work to ensure compliance with the Agreement. One or more evaluations may be conducted solely at the discretion of the County.

SECTION 3. ADDITIONAL WORK AND FEES

3.1. If the County identifies or the Contractor recommends any additional work, materials, or services to be provided by the Contractor that are not covered under this Agreement but are beneficial to the Project, such additional work, materials, or services, including scope, timing, and fees of any additional services must be mutually agreeable between the County and the Contractor and authorized in writing by the County.

SECTION 4. TERM AND TIMELY PERFORMANCE

4.1. The parties hereto mutually understand and agree that time is of the essence in the performance and completion of the Project. The Contractor agrees to timely perform all Work as provided for in this Agreement.

4.2. The date on which days will begin to be charged to the Project shall be the date the County issues an initial Notice to Proceed to the Contractor for the Project (“Notice to Proceed Date”).

4.3. The Contractor shall accomplish material acquisition within 180 calendar days from the Notice to Proceed Date.

4.4. Construction days will start as soon as the Contractor begins Work in the area, and the Contractor shall have 60 days to complete the construction Work.

SECTION 5. PAYMENT FOR WORK

5.1. The total price for the completion of the Project is estimated to be **\$846,030.39** (“Contract Price”). The Contract Price is based on the estimated quantities at the unit prices

and lump sum amounts set forth in the Revised Price Proposal attached hereto as **Attachment B**. Payments are to be made by the County to the Contractor no more than once per month at the unit prices and lump sums specified for the various items in the Revised Price Proposal upon presentation of an Invoice submitted to the County in accordance with Section 6.

5.2. The unit prices and lump sum amounts in the Revised Price Proposal include the Work to be performed by the Contractor and its subcontractors, travel, overtime, man-hours, materials, equipment, supplies, labor, overhead, profit, and all other costs, expenses and reimbursables associated with the Contractor's performance of the Work to complete the Project.

5.3. Whenever any change or combination of changes in the scope of work results in an increase or decrease in the original descriptions or quantities, and the work added or eliminated is of the same general character and quantity as that shown on the Bid or Contract Plans, the Contractor shall accept payment in full at the original unit/description prices for the actual quantities of Work performed.

SECTION 6. PAYMENT PROCEDURES

6.1. As used in this Section, the term "Act" means the Local Government Prompt Payment Act set forth in Part VII of Chapter 218, Florida Statutes; the term "Invoice" means a statement, invoice, bill, draw request or payment request submitted by the Contractor under the Agreement; and the term "Submittal Date" means, with respect to an Invoice, the submittal date thereof to the Paying Agent. Invoices shall be submitted to Clay County Comptroller's office ("Paying Agent") by Email at invoices@clayclerk.com or U.S. Mail at Clay County BOCC PO Box 988, Green Cove Springs, FL 32043 ATTN: Accounts Payable with a copy to the Project Manager. All payments will be governed by the Act, which provides that payments will be made not later than 45 days from receipt of proper invoice.

6.2. The Contractor shall submit an Invoice to the Paying Agent no more than once per month based on the amount of the Work done or completed for the Project. All partial Invoices/estimates and payments shall be subject to correction when submitted, and/or, in the subsequent estimates and payments, and the final estimate and payment.

6.3. The amount of the monthly payment shall be the total value of the Work rendered for the Project to the date of the Invoice based on the quantities and the unit prices and lump sum amounts for the items set forth in the Revised Price Proposal at **Attachment B** for the Work actually authorized and performed and quantities of materials actually used rather than the estimated prices, less an amount retained, less requests previously submitted and payments made. The amount retained shall be determined in accordance with Sections 255.078 and 255.077, Florida Statutes, as follows:

- 1) The County may withhold from each monthly payment due to be made to the Contractor under this Agreement an amount not to exceed 5 percent of said payment.

- 2) Upon completion of all items on the Punch List developed in accordance with Section 255.077, Florida Statutes, the Contractor may submit a payment request for all remaining retainage withheld by the County. If a good faith dispute exists as to whether one or more items identified on the Punch List have been completed pursuant to the Agreement, the County may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

6.4. Invoices shall be signed by the Contractor and must include the following information and items:

- 1) The Contractor's name, address and phone number, including payment remittance address.
- 2) The Invoice number and date.
- 3) Reference to the Agreement by its title and number as designated by the County and Purchase Order number, if applicable.
- 4) The period of the Work covered by the Invoice along with the quantities of Work performed along with the unit price and/or lump sum amount for the items set forth in the Revised Price Proposal.
- 5) The total amount of payment requested, the total amount previously requested, and the total amount paid to date.
- 6) Supporting documentation necessary to satisfy auditing requirements (both pre-audits and post-audits), for cost and Work completion.
- 7) The Contractor must provide any additional documents, records, updates, or information as needed to support or document the Invoice as may be requested by the County.

6.5. Upon receipt of an Invoice submitted under this paragraph, the Paying Agent and/or Project Manager shall review the Invoice and may also review the Work as delivered, installed, performed or to be performed to determine whether the quantity and quality of the Work is as represented in the Invoice and is as required by this Agreement. If the Paying Agent and/or Project Manager determines that the Invoice does not conform with the applicable requirements of this Agreement or that the Work within the scope of the Invoice has not been properly delivered, installed, performed or to be performed in full accordance with this Agreement, the Paying Agent and/or Project Manager shall notify the Contractor that the Invoice is improper and indicate what corrective action on the part of the Contractor is needed to make the Invoice proper.

6.6. By the submittal of an Invoice hereunder, the Contractor shall have been deemed to have warranted to the County that all Work for which payments have been previously received from

the County shall be free and clear of liens, claims, security interests or other encumbrances in favor of the Contractor or any other person or entity for failure to make payment.

6.7. The Parties will attempt to settle any payment dispute arising under this Section through consultation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If the dispute remains unresolved within 30 calendar days following the Submittal Date, then the Project Manager shall schedule a meeting between the Contractor's representative and the Project Manager with the County Manager, to be held no later than 45 calendar days following the Submittal Date, and shall provide written notice to the Contractor regarding the date, time and place of the meeting no less than 7 calendar days prior thereto. At the meeting, the Contractor's representative and the Project Manager shall submit to the County Manager their respective positions regarding the dispute, including any testimony and documents in support thereof. The County Manager shall issue a written decision resolving the dispute within 60 calendar days following the Submittal Date, and serve copies thereof on the Contractor's representative and the Project Manager.

6.8. Prior to submitting an Invoice, the Contractor shall certify that all subcontractors and suppliers having any interest or performing any of the Work have received their pro rata share of previous periodic payments to the Contractor for all Work completed and materials supplied. This certification shall be in the form designated by the County. The Contractor shall within 10 days of receipt of progress payments pay all subcontractors and suppliers performing any of the Work or supplying any of the materials with respect to the Work their pro rata shares of the payment for all Work completed and materials supplied. The term "subcontractor", as used herein, shall mean a person(s) or firm(s) that enters into a contract with the Contractor for the performance of any part of the Agreement and also includes persons or firms supplying materials or equipment incorporated into the Work for which partial payment has been made by the County, and work done under equipment rental contracts.

6.9. Final Payment. Subsequent to completion of the Work and prior to final payment, final accounting of the total amount of all payments shall be provided by the Contractor in the form of a detailed cost report showing Invoice number and date of Invoice for all costs as is maintained by the Contractor. Utilizing the final accounting of costs and the Contractor's records as needed, the County shall, within a reasonable time, conduct a review of all costs presented. The amount of final payment is to be made subject to the County agreeing with the final accounting of cost and payment of Work of the Contractor. It is agreed and understood that the acceptance of the final payment by the Contractor shall be considered as a release in full of all claims against the County or any of its officers, principals, employees, members or agents arising out of, or by reason of, Work done or material furnished under this Agreement. Neither the acceptance of the Work nor payment by the County shall be deemed to be a waiver of the County's right to enforce any obligations of the Contractor hereunder or to the recovery of damages for defective Work not discovered by the County at the time of final inspection. The County retains the right to recover damages for the recovery of defective or deficient Work not discovered by County at the time of final inspection. After final payment has been made by the County to the Contractor, if the County identifies an obligation under the Agreement that the Contractor has not performed, then the Contractor shall perform the obligation. The County shall reimburse the Contractor for the cost of performing the post final payment

obligation only if: (i) the County has not previously reimbursed or otherwise paid the Contractor for performing that obligation, and (ii) the cost of reimbursing the Contractor is within the Contract Price. It is understood and agreed to by the parties that final payment is not due and payable and the County shall not be obligated to remit final payment under the Agreement until the following items have been submitted to and approved by the County in proper form and substance:

- 1) Final accounting addressed above;
- 2) Completion of Punch List along with any punch list generated from final inspection;
- 3) Final acceptance by the County of the Project;
- 4) As-Built plans as applicable;
- 5) Releases of Liens or equivalent proof of payments to subcontractors and suppliers;
- 6) Contractor's warranty and any warranties from third parties; and
- 7) Certificate of Final Payment.

SECTION 7. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS

7.1. The Contractor acknowledges that federal funds will be used to fund all or a portion of the Project.

7.2. The Contractor acknowledges that the County as a recipient of federal funding must complete financial, performance, and compliance reporting as may be required. The Contractor agrees to support the County's efforts to comply with any reporting obligations.

7.3. All expenditures of state or federal financial assistance must be in compliance with the laws, rules and regulations applicable to expenditures of State funds, including but not limited to, the Reference Guide for State Expenditures.

7.4. The Contractor acknowledges that the Department shall have the right to review and approve all contracts and documents associated with the Project. The Contractor also agrees to provide the Department's authorized representatives access to construction or other work sites pertaining to the Work being performed under this Agreement.

7.5. In performance of the Work, the Contractor is bound by and shall comply and require its subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws, regulations, and specifications applicable to the Work, including, but not limited to, the Florida Department of Transportation, FY2020/2021 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs) and Florida Department of Transportation, January 2021 Standard Specifications for Road and Bridge Construction. Any express reference in this Agreement to a particular statute, rule, regulation, or specification in no way implies that no other statute, rule, regulation, or specification applies. Any violation of these laws, rules, regulations, or specifications shall constitute a material breach of this Agreement and shall entitle the County to terminate this Agreement upon delivery of written notice of termination to the Contractor as outlined herein.

7.6. The Contractor hereby certifies that the Certification for Disclosure of Lobbying Activities on Federal-Aid Contracts attached hereto as **Attachment C**, Non-Collusion Declaration and Compliance with 49 CFR §29 attached hereto as **Attachment D**, and Required Contract Provisions and Certification Regarding Debarment attached hereto as **Attachment E** that were executed by the Contractor in response to the Bid are still valid and are incorporated herein by reference.

7.7. The Contractor further acknowledges that performance under the Agreement is subject to 2 CFR Part 200, entitled “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards,” including Appendix II. The Contractor agrees to comply with 2 CFR Part 200 to the extent applicable to the Work provided by the Contractor under this Agreement.

7.8. The Contractor shall utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Agreement, and shall expressly require any subcontractors performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the subcontractor agreement.

7.9. The Contractor is bound by and shall comply with the provisions contained in FHWA 1273 attached hereto as **Attachment F** and the Davis-Bacon Act wage requirements as set forth in **Attachment G** attached hereto. The Contractor shall attach these provisions and incorporate them into any subcontractor agreement.

7.10. The Contractor must comply with all requirement imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Contractor thereto. The Contractor agrees to comply with Appendices A and E attached hereto as **Attachment H**. The Contractor shall require all subcontractors to comply with the provisions contained in Appendices A and E and shall attach and incorporate them into all subcontractor agreements.

7.11. If the Contractor, with the funds authorized by this Agreement, enters into any contracts or agreements with any third parties or subcontractors, then any such contract or agreement may require review and approval by the County and the Department and must include the criteria and provisions in this Agreement and accompanying attachments.

SECTION 8. CHANGE ORDERS

8.1. Change Orders shall only be used when necessary to clarify the Work; to provide for a change in the Work; to provide for an adjustment to the Contract Price; to provide for a time extension; to settle contract claims; to address unforeseen or unanticipated circumstances, and to make the Project functionally operational in accordance with the intent of the Agreement. Prior to requesting approval of a Change Order, the Contractor shall review the costs of any proposals and negotiate in good faith with any affected subcontractors in order to advise the County of the validity and reasonableness of such Change Order request. No work or services covered by a Change Order shall be performed before the County approves the Change Order. The Change

Order shall set forth the prices or amount to be agreed upon and/or the amount of time to be granted for an extension and any other pertinent information. No payment shall be made on a Change Order request prior to the County's executed approval of the Change Order. In addition, the County shall make no payment for any unauthorized work or services. If authorization is not previously given, the Contractor hereby agrees to waive the claim for such extra compensation. However, such notice or accounting shall not in any way be construed as proving the validity of the claim.

8.2. Change Orders must set forth the basis for the change or requested adjustment supported by sufficient substantiating data to permit evaluation by the County. Additionally, if a Change Order requests a time extension, the Change Order must set forth the circumstances justifying a time extension supported by sufficient substantiating data to permit evaluation by the County. Change Orders shall not be used for time extensions requested by the Contractor under circumstances or conditions attributable to the Contractor.

SECTION 9. INSURANCE AND BONDS

9.1. The Contractor shall maintain throughout the term of this Agreement and during any renewal or extension term(s) of this Agreement or as required herein insurance of the following types and with such terms and limits:

Insurance Type	Limits
Commercial General Liability (including premises operations, and contractual liability)	\$1,000,000 General Aggregate \$1,000,000 Products/Comp.Ops.Agg. \$1,000,000 Personal/Advertising Injury \$1,000,000 Each Occurrence \$ 50,000 Damage to Rented Premises (each occurrence fire) \$ 5,000 Medical Expenses (any one person)
Automobile Liability (all automobiles-owned, hired or non-owned)	\$1,000,000 Combined Single Limit with bodily injury/property damage, with minimum limits for all additional coverages
Workers Compensation Employers Liability	Statutory limits \$100,000 Each Accident \$500,000 Disease Policy \$100,000 Disease-Each Employee

9.2. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Prior to commencement of the Work, the Contractor must deliver certificates of insurance for the required insurance coverage to the County's Purchasing Department. The certificates of insurance for the required coverages, with the exception of Workers' Compensation and Professional Liability, shall name **"Clay County, a political subdivision of the State of Florida, and The Board of County Commissioners, Clay County, Florida, its**

employees, agents, boards and commissions, as their interests may appear” as “Additional Insureds.” The Contractor must provide confirmation of coverage renewal via an updated certificate of insurance should any policies expire prior to the expiration of this Agreement or any Work. Contractor shall provide a thirty (30) day prior written notification to the County’s Purchasing Department in the event coverage is cancelled, modified, or non-renewed. If any required insurance coverage is cancelled, terminated or revoked, the Contractor shall immediately suspend its operations until replacement insurance is obtained and verified.

9.3. The Contractor agrees to furnish a sufficient and satisfactory Performance Bond and Payment Bond in the sum of not less than 100% of the Contract Price as security for the faithful performance and payment of all of the Contractor’s obligations under the Agreement. These Bonds shall remain in effect until one year after the date when final payment hereunder becomes due, except as provided otherwise by laws or regulations, or by specific provisions of the Agreement. All Bonds shall be in compliance with, and in the form prescribed by, Section 255.05, Florida Statutes. Within ten (10) days following the execution of this Agreement, and prior to the Contractor commencing any Work, the Contractor shall cause the Bonds required herein to be recorded in the public records of the County with the Clay County Clerk of Court and Comptroller at the Contractor’s sole cost and expense, and shall deliver a certified copy of the recorded Bonds to the County’s Purchasing Department. Performance and Payment Bonds must be increased in accordance with any change order increases on the Project.

9.4. In addition to all other rights and remedies which the County may have under this Agreement, under the Bonds, and under applicable principles of law or equity, the County shall have the right to recover the full amount of the Bond(s) in the event the Contractor shall at any time abandon any of the Work, or otherwise default in its performance obligations under this Agreement, regardless of whether the default occurs prior to, on or after the Final Completion Date. The provisions of the sentence immediately preceding are supplemental to all other rights and remedies of the County arising under this Agreement, under the Bonds, and under applicable principles of law or equity, and shall not be deemed to be or construed as any limitation on or in derogation of the same, with the exception that the County may not be reimbursed more than once for the same claim.

SECTION 10. INDEMNIFICATION; SOVEREIGN IMMUNITY

10.1. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the County and the State of Florida, Department of Transportation, including their officers, agents, and employees, against any actions, liabilities, claims, or damages, including, but not limited to, reasonable attorney’s fees, arising out of, relating to, or resulting from negligent, reckless, intentional, or wrongful acts of Contractor, or any persons employed or utilized by the Contractor, acting within the scope of their office or employment, in connection with the rights granted to or exercised by the Contractor hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

10.2. The Contractor agrees to make payment of all proper charges for labor and materials required in the Work and to defend, indemnify, and save harmless the County, all of its officers, agents, and servants, against all suits and costs and all damages to which the County, or any of

its officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of the Work, or through the negligence of the Contractor, or through any improper or defective machinery, implements, or through any act or omission on the part of the Contractor, its principals, officers, agents, employees, subcontractors, suppliers or servants.

10.3. The foregoing indemnification provisions shall be subject to and within the limitations set forth in Section 768.28, Florida Statutes and shall not constitute a waiver of the County's or the Department's sovereign immunity. Nor shall the same be construed to constitute agreement by the Contractor to indemnify the County for the negligent acts or omissions of the County, its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by the Contractor to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties.

10.4. The provisions in this Section shall survive the termination or expiration of this Agreement.

SECTION 11. DEFAULT AND TERMINATION

11.1. Default by Contractor. If the Contractor fails to satisfactorily perform any condition, provision, or obligation of this Agreement; fails to make progress so as to endanger performance under the terms and conditions of this Agreement; fails to perform or begin Work on time or as directed by the Project Manager; fails to comply with the Project Schedule; fails to perform the Work with sufficient workmen and equipment or with sufficient materials to assure the prompt completion of the Project; performs the Work unsuitably or neglects or refuses to remove materials or to perform anew such Work as may be rejected as unacceptable and unsuitable, or discontinues the prosecution of the Work, or fails to resume Work which has been discontinued within a reasonable time after notice to do so; fails to comply with applicable rules, laws and regulations; or whenever the Contractor ceases operation, dissolves its corporation, or otherwise no longer provides the required Work under the terms of this Agreement, the County may consider the Contractor to be in default and may assert a default claim by giving the Contractor a written Notice of Default. Except for a default by the Contractor for failing to comply with applicable laws, rules, and regulations, which must be cured immediately, the Contractor shall have ten (10) days after receipt of the Notice of Default to either cure the default or, if the default is not curable within ten (10) days, provide a written cure plan to the County describing how and when the default will be cured. The Contractor will begin implementing the cure plan immediately after receipt of notice by the County that it approves the plan. If the Contractor fails to cure or the County does not approve the cure plan, then the County may terminate this Agreement for cause.

11.2. Termination for Cause. Upon the failure or inability of the Contractor to cure the default as provided above, unless otherwise agreed in writing, the County may terminate this Agreement, in whole or in part, for cause immediately upon written Notice of Termination by the County Representative and/or Project Manager to the Contractor. In the event the County terminates the Agreement, in whole or in part, because of default by Contractor, the County may procure goods, services, materials, and/or work similar to those terminated, and the Contractor

shall be liable for any damages, expenses, and costs incurred due to this action. If it is determined that the Contractor was not in default or that the default was excusable (e.g. failure due to causes beyond the control of, or without the fault or negligence of the Contractor), the rights and obligations of the parties shall be those as provided in the provision for Termination for Convenience.

11.3. Termination for Convenience. The County may whenever the interests of the County so require, terminate the Agreement, in whole or in part, for the convenience of the County. The County Representative and/or Project Manager shall give thirty (30) days prior written Notice of Termination to the Contractor, specifying when the termination is to become effective. In the event of any such termination, the Contractor shall be paid by the County for all Work actually and timely rendered up to receipt of the notice of termination, and thereafter until the date of termination, the Contractor shall be paid only for such Work as is specifically authorized in writing by the County.

11.4. Unless directed differently in the Notice of Termination, the Contractor shall incur no further obligations in connection with the terminated work and shall stop work to the extent specified and on the date given in the Notice of Termination. Additionally, unless directed differently, the Contractor shall terminate outstanding orders and/or subcontractor agreements related to the terminated work and shall transfer all services/work in progress, completed work, and other materials related to the terminated work to the County. The Contractor must also deliver to the County all documents, including, but not limited to, plans, studies, reports, notes, records, data, summaries, files, and such other information and materials as may have been accumulated by the Contractor and/or prepared on behalf of the County in relation to this Agreement, whether completed or in progress.

11.5. Termination of this Agreement or a portion hereof under the provisions incorporated herein shall not relieve the Contractor of its responsibilities for the completed portion or concerning any just claims arising out of the Work performed.

11.6. Force Majeure. Neither party shall be liable for any failure of or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to a "Force Majeure". For purposes of this Agreement, the term "Force Majeure" means any cause, action or agency delaying or preventing the performance of a party's obligation(s) under this Agreement which is beyond the reasonable control or foreseeability of such party including, but not limited to, natural disasters, wars, power failures, fires, floods, explosion, internet outages and other acts of God. Upon notice of a force majeure event, the party whose performance under this Agreement is affected thereby shall: (i) promptly notify the other party by the quickest means available, explaining the nature and expected duration thereof; and (ii) use reasonable efforts to diligently remedy the interruption or delay, provided that the interruption or delay is reasonably capable of being remedied by that party.

SECTION 12. LIQUIDATED DAMAGES

12.1. The Contractor must adhere to the Project Schedule. In the event the Project is not fully completed in accordance with the timeframe set forth in Section 4, a liquidated damage amount

based on the daily liquidated damage charges established in Section 8-10 of the LAP Supplemental Specifications (attached to the Bid) will be enforced as further defined below. The parties agree that such liquidated damages are not a penalty.

12.2. The parties hereto mutually understand and agree that time is of the essence in the performance of this Agreement and that the County will incur damages if the Contractor's Work is not completed on time. The Contractor shall at all times carry out its duties and responsibilities as expeditiously as possible and shall begin, perform, and complete its Work so the Project is completed on time as specified in provision 4.4. The parties agree that the total amount of the County's damages, in whole or in part, due to the Contractor's failure to complete the Project, will be difficult, if not impossible, to definitely ascertain and quantify because this Project, when completed, will benefit the public by improving pedestrian traffic and increasing public safety.

12.3. Should the Contractor fail to complete the Project on time as specified in provision 4.4, it is mutually agreed to and understood by both parties that the Contractor shall pay to the County, not as a penalty but as liquidated damages, the sum of \$1,690 per calendar day for each and every day after the scheduled final completion date for the Project established in accordance with provision 4.4 until final completion is achieved. This liquidated damages provision shall apply and remain in full force and effect in the event that the Contractor is terminated by the County for default and shall apply until final completion has been achieved by any completing contractor or County forces. The County shall have the right to apply as payment on such liquidated damages any money that is due to the Contractor by the County. Notwithstanding the foregoing, the Contractor shall have no liability for any liquidated damages due to or arising from (a) any County delay, unless such delay is due to the Contractor's breach hereunder; (b) the withholding on the part of the County through the Project Manager of any consent, direction or approval required by the County hereunder which causes delay on the part of the Contractor for which the Contractor has delivered to the County written notice describing the delay and its cause; and (c) delays caused by and directly attributable to any event of Force Majeure. The final completion date for the Project as established in accordance with provision 4.4 shall be tolled for a period of time equal to the aggregate of all delays arising under the sentence immediately preceding.

12.4. Permitting the Contractor to continue and to finish the Project after the expiration of the time allowed, including extensions of time granted to the Contractor, shall in no way act as a waiver on the part of the County of the liquidated damages due under the Agreement.

12.5. The parties agree that, although such liquidated damages are difficult to ascertain, the above amount has been agreed upon by the parties as the reasonable approximation of the amount of damages the County would suffer caused by the Contractor's breach addressed above. The County's decision to seek liquidated damages shall not be construed as a waiver of any legal remedies the County may have as to any subsequent default or breach under this Agreement.

12.6. The provisions in this Section shall survive the termination or expiration of this Agreement.

SECTION 13. AUTHORITY TO SUSPEND WORK

13.1. The County Representative and/or Project Manager shall have the authority to suspend the Work, wholly or in part, for such period or periods as may be deemed necessary, due to unsuitable weather or other conditions which are considered unfavorable for the prosecution of the Work. Should the County be prevented or enjoined from proceeding with the Work either before or after the start of any Work by reason of any litigation or other reason beyond the control of the County, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay, but time for completion of the Project will be extended to such reasonable time as the County may determine and will be set forth in writing. In the event of any such suspension, the Contractor shall be paid for all Work actually and timely rendered up to the date of suspension and for all Work so rendered after cessation of the suspension and resumption of the Work. In no event shall the County be liable to the Contractor whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any claim for damage for soft costs or assumed costs attributable to such delay, but hard cost, i.e. Remobilization, MOT, Erosion Control, etc., will be considered in accordance with the Change Order Section.

SECTION 14. SAFEGUARDS, PRESERVATION OF PROPERTY, AND FAILURE TO RESTORE DAMAGED PROPERTY AND RISK OF LOSS

14.1. The Contractor shall maintain a safe and secure worksite for the duration of the Work. The Contractor shall maintain all areas in a neat and presentable condition. The Contractor shall also maintain sufficient safeguards against the occurrence of accidents, injuries or damage to any person or property around the Work and secure all equipment, tools, and related materials.

14.2. The Contractor shall preserve from damage all property, structures, utilities, services, signs, fences, guardrails, pipes and underground structures, roads, trees, and shrubbery along the line of the Work, or which is in the vicinity of or is in any way affected by the Work, the removal or destruction of which is not called for by the scope of work. This applies to public and private property. The Contractor shall be held responsible for immediately repairing or replacing, at its own cost and expense, such property to the satisfaction of the County which is damaged by reason of the Contractor's Work on or around such property.

14.3. In case of failure on the part of the Contractor to restore and/or replace such property, or to make good such damage or injury, the County Representative and/or Project Manager may upon 48 hours' notice, proceed to repair, rebuild or otherwise restore such property, as may be deemed necessary, and the cost thereof will be deducted from any monies due or which may become due to the Contractor under the Agreement. Nothing in this provision shall prevent the Contractor from receiving proper compensation for the removal, damage or replacement of any public or private property as long as such work is authorized by the County Representative and/or Project Manager, provided that such property has not been damaged as a result from the performance of the Work or through fault of the Contractor, its employees or agents.

SECTION 15. AUDIT OF CONTRACTOR’S RECORDS

15.1. All records, expenditures, and payments connected with this Agreement must be retained for a period of at least five (5) years following the date of final payment and close-out of all pending matters. In the event of litigation or settlement of claims arising from the performance of this Agreement, the Contractor agrees to maintain all records until the County, the Department, the State of Florida Chief Financial Officer, the State of Florida Auditor General (or designee), or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related to the litigation or settlement of claims.

15.2. All records, expenditures, and payments under this Agreement are subject to examination and/or audit by the County, the Department, the State of Florida Chief Financial Officer, the State of Florida Auditor General (or designee), or any of their authorized representatives. The Contractor and any of its subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred in the performance of the Work in accordance with generally accepted accounting principles consistently applied, and the Contractor must make the records available upon request by any of the foregoing parties. The Contractor agrees to permit the County, the Department, the State of Florida Chief Financial Officer, the State of Florida Auditor General (or designee), or any of their authorized representatives to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The right also includes timely and reasonable access to the Contractor’s personnel for the purpose of interview and discussion related to such documents in accordance with 2 CFR 200.336.

15.3. Pursuant to Section 20.055(5), Florida Statutes, it is the duty of every state officer, employee, agency, special district, board, commission, contractor, subcontractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. The Contractor understands and agrees to comply with Section 20.055(5), Florida Statutes, and agrees to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

15.4. Failure of the Contractor or any of its subcontractors to comply with these requirements may result in disqualification or suspension from quoting and bidding on future projects/contracts or disapproval as a subcontractor at the option of the County.

15.5. The Contractor must require that each of its subcontractors will provide access to the subcontractor’s records pertaining to the Work upon request by the County.

15.6. The Section shall survive the termination or expiration of this Agreement.

SECTION 16. TAXES

16.1. In that the County is a governmental agency exempt from sales and use taxes, the County shall pay no such taxes, any other provisions of this Agreement to the contrary notwithstanding. The County shall provide proof of its exempt status upon reasonable request.

SECTION 17. APPROPRIATED FUNDS

17.1. The Contractor acknowledges that in the budget for each fiscal year of the County during which the term of the Agreement is in effect a limited amount of funds are appropriated which are available to make payments arising under the Agreement. Any other provisions of the Agreement to the contrary notwithstanding, and pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make under the Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.

SECTION 18. SCRUTINIZED COMPANIES CERTIFICATION

18.1. In compliance with Section 287.135(5), Florida Statutes, the undersigned hereby certifies that the Contractor is not participating in a boycott of Israel as defined in Section 287.135(1), Florida Statutes; is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as referred to in Section 287.135(2), Florida Statutes; and does not have business operations in Cuba or Syria as defined in Section 287.135(1), Florida Statutes. In accordance with Section 287.135(3), Florida Statutes, the County shall have the option of terminating this Agreement if the Contractor is found to have submitted a false certification as provided under Section 287.135(5), Florida Statutes, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as defined in Section 287.135(1), Florida Statutes.

SECTION 19. NOTICE

19.1. All notices given under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) two days after having been delivered to Federal Express, UPS, Airborne or another recognized overnight courier or delivery service, or (c) five days after having been deposited into the United States mail, by registered or certified mail, return receipt requested, postage prepaid, to the respective parties at their respective addresses set forth below:

If to Contractor:

Hubbard Construction Company
1936 Lee Road, Suite 300
Winter Park, FL 32789
Attention: P. Frederick O’Dea, Jr.
Copy to: William Dumas

If to County:

Clay County
P.O. Box 1366
477 Houston Street
Green Cove Springs, FL 32043
Attention: Howard Wanamaker, County
Manager
Copy to: Richard Smith, Project Manager

In the event that different addresses or representatives are designated by either party after execution of this Agreement, notice of the name, title, and address of the respective party will be provided to the other party.

SECTION 20. PUBLIC RECORDS

20.1. The Contractor acknowledges the County's obligation under Art. 1, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, as from time to time amended (together, the Public Records Laws), to release public records to members of the public upon request. The Contractor acknowledges that the County is required to comply with the Public Records Laws in the handling of the materials created under the Agreement and that the Public Records Laws control over any contrary terms in the Agreement. In accordance with the requirements of Section 119.0701, Florida Statutes, the Contractor covenants to comply with the Public Records Laws, and in particular to:

- a. Keep and maintain public records required by the County to perform the Work required under the Agreement;
- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the County; and,
- d. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the Work. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

20.2. The Contractor's failure to comply with the requirements of this Section shall be deemed a material breach of this Agreement, for which the County may terminate the Agreement immediately upon written notice to the Contractor.

20.3. The Contractor acknowledges the provisions of Section 119.0701(3)(a), Florida Statutes, which, as applicable to the County and the Contractor, require as follows:

- a. A request to inspect or copy public records relating to the Agreement must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request, and the Contractor must provide

the records to the County or allow the records to be inspected or copied within a reasonable time.

- b. If the Contractor does not comply with the County's request for records, the County shall enforce the contract provisions in accordance with the Agreement.
- c. If the Contractor fails to provide the public records to the County within a reasonable time, the Contractor may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 278-4754, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.

SECTION 21. SUBCONTRACTORS

21.1. The Contractor shall obtain prior written authorization from the County for the utilization of any subcontractors in connection with the Work to be performed under this Agreement. Such written authorization may be obtained from the Project Manager on behalf of the County.

21.2. Any subcontractor utilized by the Contractor shall be supervised and compensated by the Contractor.

21.3. The Contractor shall be fully responsible to the County for the (i) acts and omissions (ii) satisfactory performance and (iii) timeliness of Work of its subcontractors and of persons directly or indirectly employed by them.

21.4. The Contractor shall cause appropriate provisions under this Agreement to be inserted in all subcontractor agreements relative to the Work giving the Contractor the same powers that the County may exercise over the Contractor under any provision of this Agreement.

21.5. Nothing in the Agreement shall be construed as providing any subcontractor with any rights or remedies against the County or any of its employees, principals, officers, or agents for nonpayment or otherwise.

SECTION 22. REPRESENTATIONS

23.1. The Contractor represents that it is experienced, competent and qualified to perform the Work, services, duties, and obligations contemplated by this Agreement. The Contractor has and shall maintain at all times during the term of this Agreement sufficient expertise and other resources to perform its Work, services, duties and obligations under this Agreement. The Contractor holds and shall maintain at all times during the term of this Agreement all certifications as may be necessary to perform its work, services, duties and obligations under this Agreement.

23.2. The County reserves the right should an error be discovered in the partial or final estimates, or should proof of defective Work or materials used by or on the part of the Contractor be discovered after the final payment has been made, to claim and recover from the Contractor, by process of law, such sums as may be sufficient to correct the error or make good the defects in the Work and materials.

SECTION 23. WASTE AND HAZARDOUS MATERIAL DISPOSAL

23.1. The Contractor shall make all arrangements necessary to accomplish off-site disposal of all debris or waste generated by the Work, including, but not limited to, any hazardous materials, all at no additional cost to the County, and in accordance with federal, state, and local laws and ordinances.

SECTION 24. PUBLIC ENTITIES CRIMES

24.1. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

24.2. By signing this Agreement, the Contractor represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes). Violation of this Section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from the County's competitive procurement activities.

24.3. In addition to the foregoing, the Contractor further represents that there has been no determination, based on an audit, that it or any subcontractor has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether the Contractor has been placed on the convicted vendor list.

24.4. The Contractor will promptly notify the County if it or any subcontractor of the Contractor is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

SECTION 25. NON-DISCRIMINATION

25.1. The Contractor agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private

entities on the basis of disability in employment, public accommodations, transportation, state and local government services, and telecommunications.

25.2. The Contractor represents that it has adopted and shall maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employee relations, throughout the term of this Agreement. The Contractor agrees that on written request, the Contractor shall permit reasonable access to its records of employment, employment advertisements, application forms, and other pertinent data and records, by the Project Manager, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement. The Contractor agrees that if any of the obligations of this Agreement are to be performed by a subcontractor, then the provisions of this Section shall be incorporated into and become a part of the subcontractor agreement.

SECTION 26. SUSPENSION AND DEBARMENT

26.1. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. By execution of this Agreement, the Contractor certifies, that neither it nor its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. §180.905) are presently disqualified, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State or Federal Department or Agency (see 2 C.F.R. § 180.940 and 2 C.F.R. § 180.935).

26.2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a provision requiring such compliance with these regulations in any lower tier covered transaction it enters into.

26.3. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County and the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

SECTION 27. LOBBYING PROHIBITION CERTIFICATION

27.1. In compliance with Section 216.347, Florida Statutes, the undersigned hereby certifies that the Contractor shall not use any funds associated with this Agreement for the purpose of lobbying the Legislature, the judicial branch, or a state agency. The Contractor further certifies that 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 an employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

SECTION 28. CONFLICT OF INTEREST

28.1. Throughout the term of this Agreement, the Contractor must not accept nor perform any other employment, assignments of contracts nor obligations that would conflict with the Contractor's duties and obligations provided under this Agreement.

28.2. Neither the Contractor nor its subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Contractor or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Contractor, the Contractor, with prior approval of the County, may waive the prohibition contained in this provision provided that any such present member, officer or employee shall not participate in any action by the Contractor or the locality relating to such contract, subcontract or arrangement. The Contractor shall insert in each of their subcontracts, the following provision:

No member, officer or employee of the Subcontractor or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

28.3. The provisions of this Section shall not be applicable to any agreement between the Contractor and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

SECTION 29. INDEPENDENT CONTRACTOR

29.1. Nothing herein shall constitute or be construed to create or suggest any type or kind of employment, partnership, joint venture, or other legal relationship, express or otherwise, between the parties. The Contractor is an independent contractor and is not an employee, agent, joint-venture, or partner of the County.

SECTION 30. NO SUBLETTING OR ASSIGNMENT

30.1. The Contractor shall not sublet or assign any of its rights or duties under this Agreement to any other party without the prior written consent of the County, which consent may be withheld by the County for any or no reason. Any such sublet or assignment attempted by the Contractor without such prior written consent shall be null and void. If the Contractor attempts to sublet or assign any such rights or duties without securing such prior written consent, this Agreement may be declared in default and terminated by the County as provided herein. Any sublet or assignment approved by the County must be in accordance with Section 8-1 of the LAP Supplemental Specifications.

SECTION 31. NO THIRD-PARTY BENEFICIARIES

31.1. Any other provisions of this Agreement to the contrary notwithstanding, no third-party beneficiaries are intended or contemplated under this Agreement, and no third-party shall be deemed to have rights or remedies arising under this Agreement or such documents against either party to this Agreement.

SECTION 32. AMENDMENT OR MODIFICATION OF AGREEMENT

32.1. The Agreement may only be modified or amended upon mutual written agreement of the County and the Contractor. No oral agreements or representation shall be valid or binding upon either party. The Contractor may not unilaterally modify the terms of the Agreement by affixing additional terms to or by incorporating such terms onto the Contractor's documents or Invoices forwarded by the Contractor to the County.

SECTION 33. FURTHER ASSURANCES

33.1. Each of the parties shall cooperate with one another, shall do and perform such actions and things, and shall execute and deliver such agreements, documents and instruments, as may be reasonable and necessary to effectuate the purposes and intents of this Agreement. The Contractor further agrees to execute such documents as the County may reasonably require.

SECTION 34. REMEDIES

34.1. The parties will attempt to settle any dispute arising from this Agreement through negotiation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. Each party shall have the right to seek the judicial enforcement and interpretation of this Agreement.

SECTION 35. GOVERNING LAW AND VENUE

35.1. The County and Contractor both expressly agree that the terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled exclusively in accordance with the laws of the State of Florida, that jurisdiction shall be limited to the courts of the State of Florida, and that venue shall lie exclusively in Clay County, Florida.

SECTION 36. ATTORNEYS' FEES

36.1. In the event either party shall retain an attorney to litigate on its behalf against the other party regarding the enforcement or interpretation of this Agreement or regarding the rights, remedies, or obligations of the parties arising under this Agreement, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of reasonable attorney's fees, costs, and expenses against the other party, including fees, costs, and expenses incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of litigation, or incurred in bankruptcy or

on appeal. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend the County's liability beyond the limits established in Section 768.28, Florida Statutes.

SECTION 37. WAIVER

37.1. No waiver by the County of any breach of any provision of this Agreement by the Contractor shall constitute a waiver of any other breach of either the same provision or of any other provision by the Contractor. The failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof or any other provisions.

SECTION 38. SEVERABILITY

38.1. If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein.

SECTION 39. HEADINGS

39.1. The headings contained in this Agreement are for reference purposes only and shall not be deemed to expand, limit or change any or all the provisions hereof.

SECTION 40. COUNTERPARTS

40.1. The Agreement may be executed in one or more counterparts and by the separate parties in separate counterparts, each of which shall be deemed to constitute an original and all of which shall be deemed to constitute the one and the same Agreement.

SECTION 41. ATTACHMENTS

41.1. The Attachments listed below are incorporated herein by reference and made a part of this Agreement as if set out fully herein. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the Attachments (unless otherwise specified in an Attachment).

Attachment A: Bid Scope and Addendum 1 (without attachments)

Attachment B: Revised Price Proposal

Attachment C: Certification for Disclosure of Lobbying Activities on Federal-Aid Contracts

Attachment D: Non-Collusion Declaration and Compliance with 49 CFR §29

Attachment E: Required Contract Provisions and Certification Regarding Debarment

Attachment F: FHWA 1273

Attachment G: Davis-Bacon Act Wage Requirements

Attachment H: Appendices A and E

SECTION 42. AUTHORITY

42.1. The parties agree to utilize electronic signatures and that the digital signatures of the parties set forth below are intended to authenticate this Agreement and have the same force and effect as manual written signatures. Each person signing on behalf of the parties represents and warrants that he/she has full authority to execute this Agreement on behalf of such party and that the Agreement will constitute a legal and binding obligation of such party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written above.

HUBBARD CONSTRUCTION COMPANY

By: _____

Print Name: _____

Print Title: _____

CLAY COUNTY, a political subdivision of the State of Florida

By: _____

Wayne Bolla
Its Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

Attachment A
Bid Scope and Addendum 1
(without attachments)

Bid No. 21/22-54, CR 220 AT TOWN CENTER BLVD.
INTERSECTION IMPROVEMENT PROJECT (RE-BID)

PURPOSE

Clay County requests bids to perform the construction of intersection improvements at CR 220 at Town Center Boulevard. The improvements include construction of offset left turn lanes and associated improvements.

SCOPE OF WORK

The Contractor will be responsible for performing construction of intersection improvements at CR 220 at Town Center Boulevard. Work activities include but are not limited to the following: maintenance of traffic, clearing and grubbing, excavation and grading, erosion and sediment control, asphalt paving, drainage, sodding, signalization, signs, and pavement markings.

This project includes all associated work shown in the plans and specifications attached to this bid.

Contractors must attend the mandatory pre-bid meeting held on June 30, 2022 at 11:00 a.m. to be eligible to bid on this project.

Contractors are required to submit FDOT Pre-Qualified Fields listed within this bid. This project is Federally Funded and being delivered through the Local Agency Program. (LAP) It shall be the responsibility of the Contractor to assist the County with all requirements and obligations for federal-aid construction contracts. Refer to Attachment for Local Agency Project (LAP) Supplemental Specification applicable to this project.

All construction shall comply with the Florida Department of Transportation, FY 20/2021 Standard Plans for Road and Bridge Construction including Interim revision and Florida Department of Transportation, January 2020 Standard Specifications for Road and Bridge Construction. Contractor must abide by all documented requirements and general notes as listed in the construction plans.

The Contractor shall provide a Critical Path Method (CPM) production schedule meeting the contract days. This schedule shall be held to close scrutiny due to the impact to Inspection Time. If the contractor does not hold to the production schedule, the Contractor may be required to pay for inspection services for downtime of production. The Daily charge for Liquidated Damages shall be in accordance with Section 8-10 of the LAP Specifications.

The Contractor shall accomplish material acquisition within **120** calendar days from the NTP Date.

Construction days will start as soon as Contractor begins work in the area, and shall have **60** days to complete construction.

If Contractor chooses to start construction within allowable acquisition period, no additional time will be given.

PAYMENT

The Contractor may request payment no more than once monthly, based on the amount of work done or completed.

Addendum No. 1
Bid #21/22-54, CR 220 At Town Center Blvd. Intersection Improvement Project (RE-BID)

All Addenda language issued shall become part of the Bid and Contract documents, and receipt of and incorporation of this Addendum must be acknowledged on the bid form, located on [page 18](#) and submitted with the Bid. Failure to acknowledge Addenda which have no effect on the competitive nature of the bidding process may be a waivable deviation at the County's sole discretion.

DUE DATE: Thursday, July 14, 2022, 4:00 pm

OPEN DATE: Friday, July 15, 2022, 9:00 am

1. Does the County have a sample Bid Bond Form to be completed/included with the bid or is an AIA Document Bid Bond acceptable?

[Response: A standard bid bond from your surety is acceptable.](#)

2. Page 7 of the Instructions states "Three copies of the bid must be received in a sealed envelope." Please clarify if the County requires one original and two copies, or three original copies of the bid.

[Response: Submit one original and two copies.](#)

3. There is concern from potential subcontractors that the material acquisition time period of 120 days for signal equipment may not be enough. Currently they are being told 4-6 months after approved shop drawings, etc. for delivery of some of the components. Please consider increasing the material acquisition time period to 150 or 180 days.

[Response: Page 13, The Contractor shall accomplish material acquisition within 120 calendar days from the NTP Date has been revised to read:](#)

[The Contractor shall accomplish material acquisition within 180 calendar days from the NTP Date.](#)

4. It appears the milling and resurfacing for the crosswalk on EB CR 220 will cut the detector loops for NB Town Center Boulevard at CR 220 as the loop run crosses the sidewalk and the box is located just East of the crosswalk. Please advise.

[Response: End the crosswalk milling and resurfacing limits a few inches away from the loop lead-ins, parallel to CR 220. The proposed crosswalk preformed thermoplastic pavement markings will then be partially applied on the existing pavement.](#)

5. If milling the crosswalk on EB CR 220, since the detector loops for NB Town Center Blvd will be damaged as mentioned above, please advise if additional Milling and Resurfacing will be required in the loop area and/or if new loop assemblies are to be cut in. Please adjust plan quantities as necessary.

[Response: See response for question 4.](#)

6. The milling area for the crosswalk for EB CR 220 is much smaller than typical minimum dimensions for asphalt removal/replacement. Please consider adjusting the mill & resurface eastern limit on EB CR 220 from ME+25.00 to approximately ME+68.96 to avoid potential quality issues with such a small area in a heavily traveled section of road.

Response: See response for question 4.

7. In the plans, summary of quantities, Bid Item 630-2-11, Conduit (F&I) Open Trench, shows a quantity of 445 LF. The Bid Form lists 315 LF. Please advise which is correct.

Response: Signed and sealed plans dated 10/26/2021 are attached along with revised bid form.

8. In the plans, summary of quantities, Bid Item 635-2-11, Pull & Splice Box (F&I), shows a quantity of 14 EA. The Bid Form lists 13 EA. Please advise which is correct.

Response: Signed and sealed plans dated 10/26/2021 are attached along with revised bid form.

9. Are there any restrictions regarding night work?

Response: Lane closure restrictions are shown on sheet 21 (Temporary Traffic Control Plan), note 2. Multi-lane closures are restricted. Verify with the County if any additional restrictions are imposed by Clay County Public Works.

10. Considering the 120 day material acquisition period, the 60 day construction duration may include holidays including Thanksgiving and/or Christmas and New Year's. Will the County issue extension(s) of Contract time for holidays per FDOT Specification 8-6.4? Please clarify.

Response: The Contractor will receive a day for day adjustment for holidays and special events.

11. Considering the 120 day material acquisition period, the 60 day construction duration may occur during the colder months, with temperatures potentially impacting asphalt production/placement. Please advise if the County will adjust Contract time in accordance with Specification 8-7.3.2 in the event this occurs.

Response: The Contractor will receive a day for day adjustment for weather delays.

12. If Contractor has their own roll off containers, are they allowed to use them?

Response: No

13. If Contractor decided it works best for them, can they do all work after 7:00 p.m.?

Response: Night work is allowed for this project.

Attachment B

Revised Price Proposal

(REVISED) PRICE PROPOSAL
Bid No. 20/21-54, CR 220 AT TOWN CENTER BLVD.
INTERSECTION IMPROVEMENT PROJECT

PAY ITEM NO.	PAY ITEM DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	TOTAL COST
0101 1	MOBILIZATION	LS	1	\$ 84,000.00	\$ 84,000.00
0102 1	MAINTENANCE OF TRAFFIC	LS	1	\$ 260,000.00	\$ 260,000.00
0102 4	PEDESTRIAN SPECIAL DETOUR (7 SY)	LS	1	\$ 8,000.00	\$ 8,000.00
0102 14	TRAFFIC CONTROL OFFICER	HR	24	\$ 77.00	\$ 1,848.00
0102 74 7	CHANNELIZING DEVICE- PEDESTRIAN LCD (LONGITUDINAL CHANNELIZING DEVICE)	LF	114	\$ 1.77	\$ 201.78
0102 10 4	TEMPORARY SIGNALIZATION AND MAINTENANCE, INTERSECTION	ED	60	\$ 49.50	\$ 2,970.00
0102 10 7 1	TEMPORARY TRAFFIC DETECTION AND MAINTENANCE, INTERSECTION	ED	60	\$ 1.00	\$ 60.00
0104 10 3	SEDIMENT BARRIER	LF	345	\$ 6.02	\$ 2,076.90
0104 18	INLET PROTECTION	EA	4	\$ 204.08	\$ 816.32
0110 1 1	CLEARING & GRUBBING (0.69 AC)	LS	1	\$ 28,400.00	\$ 28,400.00
0120 1	REGULAR EXCAVATION	CY	220.4	\$ 43.89	\$ 9,673.36
0120 6	EMBANKMENT	CY	466.4	\$ 104.12	\$ 48,561.57
0285715	OPTIONAL BASE, BASE GROUP 15	SY	896	\$ 105.85	\$ 94,841.60
0327 70 6	MILLING EXIST ASPH PAVT, 1.5" AVG DEPTH	SY	2364	\$ 10.60	\$ 25,058.40
0334 1 13	SUPERPAVE ASPHALTIC CONC, TRAFFIC C	TN	95.0	\$ 202.90	\$ 19,275.50
0337 7 83	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-12.5, PG 76-22	TN	266.2	\$ 254.60	\$ 67,774.52
0425 152 1	INLETS, DT BOT, TYPE C, <10	EA	2	\$ 4,567.06	\$ 9,134.12
0430 175 218	PIPE CULVERT, OPTIONAL MATERIAL, OTHER-ELIP/ARCH, 18" S/CD	LF	408	\$ 176.85	\$ 72,154.80
0430 982 625	MITERED END SECTION, OPTIONAL - ELLIPTICAL / ARCH, 18" CD	EA	2	\$ 5,356.81	\$ 10,713.62
0524 1 29	CONCRETE DITCH PAVEMENT, 4", REINFORCED	SY	2	\$ 877.14	\$ 1,754.28

CONTRACTOR NAME: Hubbard Construction Company

(REVISED) PRICE PROPOSAL (Continued)
Bid No. 20/21-54, CR 220 AT TOWN CENTER BLVD.
INTERSECTION IMPROVEMENT PROJECT

PAY ITEM NO.	PAY ITEM DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	TOTAL COST
0570 1 2	PERFORMANCE TURF (SOD)	SY	2474	\$ 3.88	\$ 9,599.12
0710 111 01	PAINTED PM, STD, WHITE, SOLID, 6"	GM	0.189	\$ 10,052.91	\$ 1,900.00
700 1 11	SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF	AS	4	\$ 702.00	\$ 2,808.00
700 1 50	SINGLE POST SIGN, RELOCATE	AS	1	\$ 250.00	\$ 250.00
700 1 60	SINGLE POST SIGN, REMOVE	AS	1	\$ 83.50	\$ 83.50
710 90	PAINTED PAVEMENT MARKINGS - FINAL SURFACE	LS	1	\$ 3,381.00	\$ 3,381.00
711 11 123	THERMOPLASTIC, STD, WHITE, SOLID, 12" FOR CROSSWALK	LF	280	\$ 3.50	\$ 980.00
711 11 124	THERMOPLASTIC, STD, WHITE, SOLID, 18" FOR DIAGONALS AND CHEVRONS	LF	318	\$ 4.50	\$ 1,431.00
711 11 125	THERMOPLASTIC, STD, WHITE, SOLID, 24" FOR STOP LINE	LF	102	\$ 5.50	\$ 561.00
711 11 141	THERMOPLASTIC, STANDARD, WHITE, (6/10) DOTTED GUIDELINE, 6"	GM	0.030	\$ 3,550.00	\$ 106.50
711 11 170	THERMOPLASTIC, STANDARD, WHITE, ARROWS	EA	10	\$ 125.00	\$ 1,250.00
711 14 125	THERMOPLASTIC, PREFORMED, WHITE, SOLID, 24" FOR CROSSWALK	LF	230	\$ 14.10	\$ 3,243.00
711 16 101	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 6"	GM	0.158	\$ 6,379.75	\$ 1,008.00
630 2 11	CONDUIT (F&I) (OPEN TRENCH)	LF	315	\$ 19.50	\$ 6,142.50
630 2 12	CONDUIT (F&I) (DIRECTIONAL BORE)	LF	405	\$ 33.00	\$ 13,365.00
632 7 1	SIGNAL CABLE (NEW OR RECONSTRUCTED INTERSECTION) (F&I)	PI	1	\$ 7,075.00	\$ 7,075.00
635 2 11	PULL & SPLICE BOX (F&I)	EA	13	\$ 1,052.00	\$ 13,676.00
646 1 12	ALUMINUM SIGNALS POLE (F&I) (PEDESTRIAN DETECTOR POST)	EA	1	\$ 2,092.00	\$ 2,092.00
646 1 60	ALUMINUM SIGNALS POLE (REMOVE)	EA	1	\$ 268.00	\$ 268.00
650 1 14	TRAFFIC SIGNAL (F&I) (ALUMINUM) (3 SECTION) (1 WAY)	AS	2	\$ 1,499.00	\$ 2,998.00

CONTRACTOR NAME: Hubbard Construction Company

(REVISED) PRICE PROPOSAL (Continued)
Bid No. 20/21-54, CR 220 AT TOWN CENTER BLVD.
INTERSECTION IMPROVEMENT PROJECT

PAY ITEM NO.	PAY ITEM DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	TOTAL COST
650 1 16	TRAFFIC SIGNAL (F&I) (ALUMINUM) (4 SECTION) (1 WAY)	AS	2	\$ 1,883.00	\$ 3,766.00
650 1 60	TRAFFIC SIGNAL (REMOVE) (POLES TO REMAIN)	AS	2	\$ 44.50	\$ 89.00
660 2 102	LOOP ASSEMBLY (F&I) (TYPE B)	AS	4	\$ 1,069.00	\$ 4,276.00
660 2 106	LOOP ASSEMBLY (F&I) (TYPE F)	AS	2	\$ 1,195.00	\$ 2,390.00
665 1 11	PEDESTRIAN DETECTOR, FURNISH & INSTALL, STANDARD	EA	1	\$ 239.00	\$ 239.00
665 1 60	PEDESTRIAN DETECTOR, REMOVE-POLE/PEDESTAL TO REMAIN	EA	1	\$ 89.50	\$ 89.50
670 5 600	TRAFFIC CONTROLLER ASSEMBLY (REMOVE) (CONTROLLER WITH CABINET)	AS	1	\$ 1,047.00	\$ 1,047.00
671 2 30	TRAFFIC CONTROLLER (INSTALL)	EA	1	\$ 1,771.00	\$ 1,771.00
676 1 116	TRAFFIC SIGNAL CONTROLLER CABINET (F&I WITHOUT CONTROLLER) (NEMA SIZE 6)	EA	1	\$ 2,540.00	\$ 2,540.00
676 1 400	TRAFFIC SIGNAL CONTROLLER CABINET (RELOCATE)	EA	1	\$ 1,336.00	\$ 1,336.00
684 1 4	MANAGED FIELD ETHERNET SWITCH (RELOCATE)	EA	1	\$ 4,157.00	\$ 4,157.00
700 3 201	SIGN PANEL (F&I) (OVERHEAD MOUNT) (UP TO 12 SF)	EA	2	\$ 760.00	\$ 1,520.00
700 3 601	SIGN PANEL (REMOVE) (OVERHEAD MOUNT) (UP TO 12 SF)	EA	2	\$ 268.00	\$ 536.00
711 16 102	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 8"	GM	0.172	\$ 9,389.53	\$ 1,615.00
711 16 131	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, (10 / 30) SKIP, 6"	GM	0.031	\$ 1,790.32	\$ 55.50
711 16 201	THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6"	GM	0.170	\$ 6,300.00	\$ 1,071.00

GRAND TOTAL

\$ 846,030.39

(Figures)

Eight Hundred Forty Six Thousand, Thirty Dollars and Thirty Nine Cents

(Written in Words)

Proposals require a five (5%) percent bid bond (based on above total) and may not be withdrawn after the scheduled opening time for a period of thirty (30) days.

CONTRACTOR NAME: Hubbard Construction Company

Attachment C
Certification for Disclosure of
Lobbying Activities on
Federal-Aid Contracts

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**CERTIFICATION FOR DISCLOSURE OF LOBBYING ACTIVITIES
ON FEDERAL-AID CONTRACTS
(Compliance with 49CFR, Section 20.100 (b))**

375-030-33
PROCUREMENT
10/01

The prospective participant certifies, by signing this certification, that to the best of his or her knowledge and belief:

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

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. (Standard Form-LLL can be obtained from the Florida Department of Transportation's Professional Services Administrator or Procurement Office.)

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 Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

Name of Consultant: Hubbard Construction Company

By: P. Frederick O'Dea, Jr. Date: 7-14-22

Authorized Signature: *P. Frederick O'Dea*

Title: Secretary & VP

Attachment D
Non-Collusion Declaration
and Compliance with
49 CFR §29

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**NON-COLLUSION DECLARATION AND
COMPLIANCE WITH 49 CFR § 29**

ITEM/SEGMENT NO.: _____
F.A.P. NO.: _____
MANAGING DISTRICT: _____
PARCEL NO.: _____
COUNTY OF: Clay _____
BID LETTING OF: _____

I, P. Frederick O'Dea, Jr., hereby declare that I am
(NAME)
Secretary & VP of Hubbard Construction Company
(TITLE) (FIRM)
of Winter Park, FL
(CITY AND STATE)

and that I am the person responsible within my firm for the final decision as to the price(s) and amount of this Bid on this State Project.

I further declare that:

1. The prices(s) and amount of this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition with any other contractor, bidder or potential bidder.
2. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential bidder on this project, and will not be so disclosed prior to the bid opening.
3. No attempt has been made or will be made to solicit, cause or induce any other firm or person to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid or other form of complementary bid.
4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary bid.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit a complementary bid on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting a complementary bid, or agreeing to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this Declaration.
8. As required by Section 337.165, Florida Statutes, the firm has fully informed the Department of Transportation in writing of all convictions of the firm, its affiliates (as defined in Section 337.165(1)(a), Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract or for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees of the firm or affiliates who were convicted of contract crimes while in the employ of another company.

9. I certify that, except as noted below, neither my firm nor any person associated therewith in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, and/or position involving the administration of Federal funds:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as defined in 49 CFR §29.110(a), by any Federal department or agency;

(b) has within a three-year period preceding this certification been convicted of or had a civil judgment rendered against him or her for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, State or local government transaction or public contract; violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

(c) is presently indicted for or otherwise criminally or civilly charged by a Federal, State or local governmental entity with commission of any of the offenses enumerated in paragraph 9(b) of this certification; and

(d) has within a three-year period preceding this certification had one or more Federal, State or local government public transactions terminated for cause or default.

10. I(We), certify that I(We), shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this contract by any Federal Agency unless authorized by the Department.

Where I am unable to declare or certify as to any of the statements contained in the above stated paragraphs numbered (1) through (10), I have provided an explanation in the "Exceptions" portion below or by attached separate sheet.

EXCEPTIONS:

(Any exception listed above will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate to whom it applies, initiating agency and dates of agency action. Providing false information may result in criminal prosecution and/or administrative sanctions.)

I declare under penalty of perjury that the foregoing is true and correct.

CONTRACTOR: _____ (Seal)

BY: P. Frederick O'Dea, Jr., Secretary & VP
NAME AND TITLE PRINTED

WITNESS: _____

BY: *P. Frederick O'Dea*
SIGNATURE

WITNESS: _____

Executed on this 14 day of July, 2022

**FAILURE TO FULLY COMPLETE AND EXECUTE THIS DOCUMENT
MAY RESULT IN THE BID BEING DECLARED NONRESPONSIVE**

Attachment E
Required Contract Provisions
and Certification
Regarding Debarment

REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

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

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered. 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.

3. 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 when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that 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.

6. 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.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

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

9. Except for transactions authorized under paragraph 5 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 Covered Transactions

(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 participation in this transaction 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.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION-
LOWER TIER COVERED TRANSACTIONS FOR FEDERAL AID CONTRACTS**
(Compliance with 2 CFR Parts 180 and 1200)

375-030-32
PROCUREMENT
11/15

It is certified that neither the below identified firm nor its principals are presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Name of Consultant/Contractor: Hubbard Construction Company

By: P. Frederick O'Dea, Jr.

Date: 7-14-22

Title: P. Frederick O'Dea, Jr., Secretary & VP

Instructions for Certification

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.

Attachment F
FHWA 1273

I. 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

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.

ATTACHMENTS

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

II. GENERAL

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

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

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

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

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

III. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
- d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

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

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

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

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

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

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IV. 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.

V. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

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

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

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

VI. 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.

VII. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

3. Withholding for unpaid wages and liquidated damages. The FHWA or the 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.

VIII. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

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

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

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

IX. 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).

X. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

XI. 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.

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

XIII. 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.

* * * * *

XIV. 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
work. PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

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

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

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

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

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

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

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

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

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

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work

which is, or reasonably may be, done as on-site.

Attachment G
Davis-Bacon Act
Wage Requirements

"General Decision Number: FL20220162 02/25/2022

Superseded General Decision Number: FL20210162

State: Florida

Construction Type: Highway

County: Clay County in Florida.

HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022

* SUFL2013-023 08/19/2013

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 12.74 **	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 12.25 **	0.00
ELECTRICIAN.....	\$ 21.87	0.00
FENCE ERECTOR.....	\$ 11.41 **	0.00
HIGHWAY/PARKING LOT STRIPING: Operator (Striping Machine).....	\$ 12.37 **	0.32
HIGHWAY/PARKING LOT STRIPING: Painter.....	\$ 12.13 **	0.00
INSTALLER - GUARDRAIL.....	\$ 11.94 **	0.00
IRONWORKER, ORNAMENTAL.....	\$ 13.48 **	0.00
IRONWORKER, REINFORCING.....	\$ 15.77	0.00
IRONWORKER, STRUCTURAL.....	\$ 17.50	0.00
LABORER (Traffic Control Specialist).....	\$ 10.94 **	0.00
LABORER: Asphalt, Includes Raker, Shoveler, Spreader and Distributor.....	\$ 13.61 **	0.00
LABORER: Common or General.....	\$ 10.39 **	0.00
LABORER: Concrete Saw (Hand Held/Walk Behind).....	\$ 12.04 **	0.00
LABORER: Flagger.....	\$ 12.02 **	0.00
LABORER: Grade Checker.....	\$ 13.64 **	0.00
LABORER: Landscape & Irrigation.....	\$ 11.48 **	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 12.81 **	0.00
LABORER: Pipelayer.....	\$ 14.46 **	1.17
OPERATOR: Auger.....	\$ 12.43 **	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 14.81 **	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 12.86 **	0.00
OPERATOR: Boom.....	\$ 16.50	0.00
OPERATOR: Boring Machine.....	\$ 17.18	0.00
OPERATOR: Broom/Sweeper.....	\$ 11.60 **	0.00
OPERATOR: Bulldozer.....	\$ 15.76	0.00

OPERATOR: Concrete Finishing Machine.....	\$ 15.44	0.00
OPERATOR: Concrete Pump.....	\$ 19.57	0.00
OPERATOR: Concrete Saw.....	\$ 15.09	0.00
OPERATOR: Crane.....	\$ 20.62	0.00
OPERATOR: Curb Machine.....	\$ 19.21	0.00
OPERATOR: Distributor.....	\$ 15.01	0.00
OPERATOR: Drill.....	\$ 14.71 **	0.00
OPERATOR: Forklift.....	\$ 12.02 **	0.00
OPERATOR: Gradall.....	\$ 14.71 **	0.00
OPERATOR: Grader/Blade.....	\$ 18.21	0.00
OPERATOR: Grinding/Grooving Machine.....	\$ 16.07	0.00
OPERATOR: Loader.....	\$ 16.23	0.00
OPERATOR: Mechanic.....	\$ 18.20	0.00
OPERATOR: Milling Machine.....	\$ 15.27	0.00
OPERATOR: Oiler.....	\$ 14.92 **	0.00
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 15.32	0.00
OPERATOR: Piledriver.....	\$ 17.23	0.00
OPERATOR: Post Driver (Guardrail/Fences).....	\$ 20.22	0.00
OPERATOR: Roller.....	\$ 12.07 **	0.00
OPERATOR: Scraper.....	\$ 12.01 **	0.00
OPERATOR: Screed.....	\$ 14.97 **	0.00
OPERATOR: Tractor.....	\$ 12.91 **	0.00
OPERATOR: Trencher.....	\$ 20.17	0.00
PAINTER: Spray.....	\$ 19.57	0.00
TRAFFIC SIGNALIZATION: Traffic Signal Installation.....	\$ 16.36	0.00
TRUCK DRIVER: Dump Truck.....	\$ 14.61 **	0.00
TRUCK DRIVER: Flatbed Truck.....	\$ 14.28 **	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 14.58 **	0.00
TRUCK DRIVER: Slurry Truck.....	\$ 11.96 **	0.00
TRUCK DRIVER: Vector Truck.....	\$ 13.70 **	0.00

TRUCK DRIVER: Water Truck.....\$ 14.23 ** 0.00

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

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$15.00) or 13658 (\$11.25). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

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

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

Union Rate Identifiers

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

2014.

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

Survey Rate Identifiers

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

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

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

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

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

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

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

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END OF GENERAL DECISIO"

Attachment H

Appendices A and E

APPENDICES A AND E

Revised 01/2015

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- (1.) **Compliance with Regulations:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- (2.) **Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3.) **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- (4.) **Information and Reports:** The Contractor shall provide all information and reports required by the 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 the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the *Florida Department of Transportation* shall impose such contract sanctions as it or the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.
- (6.) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier*

Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (7.) **Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).