



**OLD CHARLOTTE RD.**  
**SIDEWALK EXTENSION PHASE I**

**TRANSPORTATION DEPARTMENT**

**P.O. Box 308 - 850 Warren C. Coleman Blvd.  
Concord, North Carolina 28026-0308**



**TRANSPORTATION DEPARTMENT**

**EXHIBIT "A"  
GENERAL CONDITIONS AND QUOTE FORM**

**Solicitations of Quotes for the  
Old Charlotte Rd. Sidewalk Extension Phase I**

The City of Concord is requesting Quotes for a sidewalk extension with curb and gutter and other associated work on Old Charlotte Rd. running from an existing sidewalk just north of Sunderland Rd., SW to the round-about on Cabarrus Ave., W. (approximately 800-ft) as further described below. If you wish to submit a Quote on this work, please fill out the Quote Form sheet that is enclosed herein and return at the address listed below.

1) Definitions:

City – City of Concord, North Carolina

Change Order - A document recommended by the Director which is signed by Contractor and City and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

Contract – the executed agreement between the City of Concord and the successful bidder, covering the performance of the work and the compensation therefore. The term contract is all inclusive with reference to all written agreements affecting a contractual relationship and all documents referred to therein, and shall specifically include, but not be limited to, the Bid Form, the printed Contract Form and all Attachments thereto, the Contract Bonds, Insurance Forms, Exhibits, the Plans, the Standard Specifications and all supplemental specifications thereto, the general conditions, and all executed supplemental agreements, all of which constitute one instrument.

Contract Price - The moneys payable by City to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement and subject to the applicable provisions of these General Conditions in the case of Unit Price Work and authorized Change Orders).

Contractor – the Contractor named in the contract documents.

Director – City of Concord Transportation Director or the Director's representative.

Field Order - A written order issued by the Director which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

Engineer - City of Concord Transportation Director

Owner – City of Concord, North Carolina.

Proposal requirements – the legal and procedural documents, any general and special provisions, together with modifications thereof, and Standard Specifications requirements, with all addenda thereto.

Quoter - An individual, partnership, firm, corporation, or joint venture submitting a quote for the work contemplated

Special Conditions - That part of the Contract Documents which amends or supplements these General Conditions.

Standard Drawings - North Carolina Department of Transportation Raleigh, "Highway Design Branch Roadway Standard Drawings" Latest Ed.

Standard Specifications - North Carolina Department of Transportation Raleigh, "Standard Specifications for Roads and Structures", Latest Ed. and the "Highway Design Branch Roadway Standard Drawings" Latest Ed.

Subcontractor - any person, firm, partnership, corporation, with a direct contract with the Contractor who acts for or in behalf of the Contractor in executing any part of the contract, but does not include one who merely furnishes materials.

Transportation Department - City of Concord Transportation Department.

Underground Facility, Utility, Services - All underground pipeline, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic of other control systems.

Work - the entire completed service or the various, separately identifiable parts, labor, material or requirement thereof needed to perform such under the contract documents to the satisfaction of the City.

- 2) Project Information: The work under the Old Charlotte Rd. Sidewalk Extension Phase I project consists of the selected Contractor performing construction and installation of a sidewalk extension as indicated on the construction plans and discussed in the pre-quoting walk through including, but is not limited to, all mobilizations, demobilizations, control, layout, materials, tools, labor, rentals, consumables, miscellaneous hardware, supporting hardware and software, clearing, grubbing, excavations, hauling operations, filling, rough grading and fine grading, compaction, installation and / or adjustments of stormwater drainage conveyance structures, incidental relocations, structural stabilization, forming, backfilling, sawing existing concrete and asphalt, furnishing, placing, and finishing concrete, construction joints, ADA accommodations, milling, tacking, furnishing, placing and compaction of asphalt, sedimentation and erosion control, touch-up repairs, security of the work, traffic control and safety operations with associated materials, removal of any debris, cleanup, and disposal(s), special subcontracting, permits and licenses, seeding, mulching, miscellaneous landscaping and relocations, and all else required as necessary, in accordance with the Contract documents, City Technical Standards Manual, Standard Specifications, and Standard Drawings to the satisfaction of the Director and the City of Concord.

The Contractor is also hereby referred to certain items of the Special Conditions for further information with regards to this work.

Any defective work whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause shall be removed and the work re-executed at no cost to the City.

- 3) Specified Times of the Contract, Working Hours, Schedules, Reports, and Supervision: The Contractor shall pursue the work diligently with workmen in sufficient numbers, abilities, and supervision; and with equipment, materials and methods of construction as may be required to satisfactorily complete the work described in this contract as provided by the Director by the Completion Date of **NINETY (90)** from the Notice to Proceed Date to maintain working hours from 9:00 AM to 4:00 PM with a ½ hour unpaid lunch allowance unless otherwise modified by the Director. All work shall be accomplished in a continuous manner once the contractor begins. Normal, daily mobilizations in the course of the work shall be considered

incidental to the contract unit prices of all quote items.

Additionally, the Contractor will at no cost to the City notify the Director within **forty-eight (48)** hours in advance of beginning work and thereafter coordinate with the Director or the Director's representative regarding the proposed work schedule, pay request submittals and obtain approval and request for cooperative efforts by the City.

The Contractor will be required to begin work in accordance with the Notification to Proceed from the City on all work included in this contract or as directed by the Director or the Director's representative.

The Contractor shall at all times be responsible for the supervision, conduct, and discipline of his employees and/or Subcontractors and persons employed by said Subcontractors. All foremen and workmen must have sufficient knowledge, skill, and experience to perform properly the work assigned to them. Any foreman or workman, who in the opinion of the Director, that does not perform his work in a skillful and diligent manner, or who acts in a disorderly or intemperate manner, shall be removed from any portion of the work covered by this contract by the Contractor.

When one or multi-crews are employed, there shall be a designated crew foremen or job superintendent that will represent the Contractor as a single point of contact for the crew(s).

- 4) Specifications and Regulations: The following sections under this Part 4) are for earthwork, stormwater conveyance structure installation or adjustments, structural subgrades, concrete sidewalk installation, ADA accommodations, concrete curb and gutter, roadway asphalt and concrete pavements, sedimentation and erosion control, pavement marking, site security and work zone traffic safety, and other operations as also delineated and described in Part 2) Project Information, other Parts of Exhibit A, the construction plans, and Special Conditions.

All material, methods and other aspects of the work shall be provided, constructed, installed, inspected, and accepted in accordance with and as further defined under the applicable Divisions and Sections of the Standard Specifications, associated Standard Drawings, provisions of these General Conditions, Special Conditions, Contract Documents, construction plans or associated documents and cross-references therein and as generally described as follows:

Note: Where mentioned and applied in the Standard Specifications, Engineer shall under this contract be deemed as and have the same authority as the Transportation Director. Other items with regards to specifications and regulations for this work are noted in the Special Conditions.

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#### **Construction Control of Work**

The Contractor shall be responsible for all project control, construction layout, and staking so as to properly construct the work in accordance with Division 1 - Section 105 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative. No direct payment will be made for the control of work as this operation will be incidental to the work and full compensation for such will need to be included as part of the unit prices for the various Pay Items in the contract.

**Work Zone Traffic Control**

All material, installation of control measures, and maintenance of this section of the work shall be in accordance with Division 11 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

All pedestrian control, vehicular traffic control, safety, and security associated with the entire work shall be in accordance with Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD) latest Edition, OSHA, and any other applicable federal, state and local laws and regulations and shall be the responsibility of the Contractor. All hazards associated with the work that may pose as a danger and hazard shall be protected both during and outside of working hours. The Contractor shall not close a lane of traffic, detain and/or alter the traffic flow on or during holidays, holiday weekends, special events, or any other time when traffic is unusually heavy.

The Contractor is responsible for operating and maintaining traffic control correctly. At least one member of each crew on the project site shall be certified in Work Zone Traffic Control and the operation(s) being used. If the Contractor fails to provide proper traffic control, the Director or the Director's representative has the authority to cease all operations and the contractor will not be allowed to continue for that day on this contract. This will result in the loss of production for this day and is not a legitimate claim for contract time extension.

The Contractor shall operate his equipment and conduct his operation to maintain the flow and safety of traffic. Maintenance of traffic (both vehicular and pedestrian) shall be done in accordance with Section 150 of the Standard Specifications. Work shall only be performed when weather and visibility conditions allow safe operations. Traffic cones (36-inch minimum height) may be used when approved by the Director or the Director's representative. When cones are used, they shall be either double stacked or have special heavy bottoms such that they will not be blown over by traffic. The Contractor shall temporarily remove his equipment from the travelway for emergency vehicles and school buses as directed by the Director or the Director's representative.

Work shall not be performed before sunrise or after sunset unless approved by the Director and such work is in compliance with Section 107 of the Standard Specifications and the Contractor provides artificial lighting as may be necessary to provide for safe and proper construction and to provide for adequate inspection of the work as described in Section 1413 of the Standard Specifications. No direct payment will be made for any items as covered in Section 1413 as such will be considered incidental to other pay items of the work.

**Earthwork**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 2, Division 8 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

**Pipes and Culverts**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 3 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

**Subgrades, Bases, and Shoulders**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 5 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

**Asphalt Pavements**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 6 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

**Concrete Pavements**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 7 and other applicable Sections and Divisions of the Standard Specifications unless otherwise delineated or specified. All work shall be to the satisfaction of the Director or the Director's representative.

**Concrete Sidewalks, Wheelchair Ramps and Associated Incidentals**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 8 - Section 848 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative. All concrete materials, unless otherwise delineated or specified, used for the work shall be 3600 psi and be non-tinted.

**Concrete Curb and Gutter**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 8 - Section 846 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

**Materials**

All materials used for the work shall be in accordance with Division 10 and other applicable Sections and Divisions of the Standard Specifications. The Contractor shall furnish the applicable certifications and documentation for all materials as required by the Standard Specifications. Material that is not properly certified will not be accepted.

**Pavement Markings**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 12 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

**Sedimentation and Erosion Control**

All material, construction, inspection and acceptance of this section of the work shall be in accordance with Division 16 and other applicable Sections and Divisions of the Standard Specifications. All work shall be to the satisfaction of the Director or the Director's representative.

**Acceptance of Materials and Work**

Acceptance of all materials and work shall be to the satisfaction of the Director or the Director's representative.

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Inspection, quality control management and required testing for stormwater piping, concrete, and asphalt construction shall be in accordance with Division 3 – Pipe Culverts, Division 5 - Subgrades, Bases, and Shoulders, Division 6 – Asphalt Pavement, Division 7 – Concrete Pavements and Shoulders and Division 8 – Incidentals of the Standard Specifications and in accordance with the requirements shown in the Contract Documents. Other required inspections (i.e. erosion control devices, earthwork, etc.) shall be in accordance with the Standard Specifications and the Contract Documents.

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Responsibilities of the Contractor shall be in accordance with Division 1 of the Standard Specifications and in accordance with the requirements shown in the Contract Documents.

The Contractor shall keep himself fully informed of, comply with, give all notices, and secure all permits and approvals associated with Federal, State and local laws, regulations, codes and ordinances in any manner affecting the work, and all such orders and decrees as exist, or may be enacted by bodies having any jurisdiction or authority over the work, and shall indemnify and hold harmless the City against any claim or liability, including the cost of defense and attorney's fee arising from, or based on, the violation of any such laws, regulations, codes, ordinances, order or decree, whether by himself or his employee.

If any device, design, material or process covered by letters, patent or copyright is used by the Contractor, he shall provide for such use by legal agreement with the owner of the patent or a duly authorized licensee of such owner, and shall hold harmless the City from any and all loss or expense on account thereof in accordance with the first paragraph of this subsection, including its use by the City.

- 5) Posted Weight Limits: The Contractor's attention is directed to the fact that certain bridges in the City of Concord have posted weight limits. The Contractor will not be allowed to exceed the posted weight limits in transporting materials or equipment to the project. The Contractor should make a thorough examination of all maps and haul routes (both City and NCDOT facilities) on this project.
- 6) Utility Locations, Conflict and Coordination: Protection of all public and private property on and adjacent to the work and responsibility to the public shall be in accordance with Section 107 of the Standard Specifications.

The Contractor shall be solely responsible for contacting the appropriate utility or agency in the work areas and for the exact locations all overhead or underground facility, utility or services before starting work. It shall be the sole responsibility of the Contractor to verify the location of all utilities and services along and in the work area and to protect such from uninterrupted service. The Contractor shall adhere to all applicable regulations and follow accepted safety procedures when working in the vicinity of utilities in order to insure the safety of construction personnel and the public.

Permanent relocation(s) of any utility or utility service as indicated on the construction plans and as specified on the Quoting Form shall be performed by the Contractor. Acceptance of all materials and work shall be to the satisfaction of the Director or the Director's representative in coordination with representatives of the appropriate utility or agency.

Any utility or service that, in the opinion of the Contractor, will have to be made safe or temporarily relocated in order to perform the work shall be coordinated between the Contractor and the applicable utility or service provider. No direct payment will be made for this work, as it will be incidental to the project work and payment at the contract unit price for the various Pay Items in the contract will be full compensation for such action.

- 7) Site Security, Sanitary Provisions, Clean-Up, Pollution Control, and Storage: The Contractor shall at all times so conduct the work as to insure the least possible obstruction to pedestrians, vehicular traffic and inconvenience to the general public and businesses in the vicinity of the work, and to insure the protection of persons and property in a manner satisfactory to the City. No road shall be closed to the public except with the permission of the Director. Fire hydrants on or adjacent to the work shall be kept accessible to fire-fighting equipment at all times.

The Contractor is wholly responsible for off-site location of his trucks, equipment and associated material.

At the end of each workday, the Contractor shall clean the site of any non-structural component debris and waste materials, which result from the work and secure the work from any hazardous condition. The Contractor or his Subcontractor will haul and properly dispose away any such debris or waste material to an approved, public receiving facility permitted by the Solid Waste Management Division of the North Carolina Department of Environment and Natural Resources to receive the type material being disposed. All debris materials permanently removed are the property of the Contractor.

The Contractor shall provide for the control of erosion, siltation, and pollution in accordance with Section 107-13 of the Standard Specifications.

The Contractor shall provide in accordance with Section 107-7 of the Standard Specifications such sanitary accommodations for the use of his employees as may be necessary to comply with the requirements and regulations of the local and State health authorities

The Contractor shall not enter upon private property for any purpose without obtaining permission, and shall be responsible for the preservation of all public property and other items, along and adjacent to the street right-of-way. The Contractor shall use every suitable precaution to prevent damage to such items and especially including vehicles, structures, poles, wires, conduits, underground infrastructure, signs, pavement, monuments, and property marks in the vicinity of the work.

- 8) City Privilege License: The selected Contractor and any Subcontractor(s) will be required to hold a current City of Concord Privilege License. Contact the City of Concord Tax Office at 704-920-5216 for information with regards to this requirement.

Insurance: The Contractor shall procure and maintain insurance for the contract time by the Contractor, at his own expense, in an amounts and coverage as stated in **Sec. 7 and Sec. 8** of the **CONSTRUCTION CONTRACT FOR Old Charlotte Rd. Sidewalk Extension Phase I**. Certificate(s) of Insurance and proof thereof shall be furnished to the Transportation Director and approved by the City of Concord Safety, Health and Risk Manager and City Attorney(s) prior to commencement of the work.

- 9) Indemnity: Refer to **Sec. 13** of the **CONSTRUCTION CONTRACT FOR Old Charlotte Rd. Sidewalk Extension Phase I**.
- 10) Contract Administration: The general responsibility for the administration of this contract will be done by the Director or the Director's representative. All work, reports, and requests for payment shall be subject to inspection and evaluation by the Director or the Director's representative at any time.

The Director acting directly, or through duly authorized representatives, will decide all questions which may arise as to the quality and acceptability of the work performed and as to the rate of progress of the work; all questions which may arise as to the interpretation of the contract; and all questions as to the acceptable fulfillment of the contract on the part of the Contractor. The Director's decision shall be final and shall have executive authority to enforce and make effective such decisions and orders if the Contractor fails to carry out promptly.

- 11) Method of Measurement: Measurement of the work will be made based on the actual and verified quantities which has been satisfactorily completed and accepted by the City as under the specific pay items as provided on the Quote Form. The method of measurement and computations used in determination of quantities of material furnished and of work performed under the contract will be those methods generally recognized as conforming to accepted engineering practices and according to United States standard measures. Quantities indicated on the Quote Form are estimated and not guaranteed; they are solely for comparing Bid.
- 12) Basis of Payment and Requests for Payment: The quantities of the work, measured as provided above, will be paid for at the bid unit price on the Quote Form.
- 13) Payment(s) and full compensation for the work will be based on the actual accepted quantities installed and payment(s) shall include any and all related items as specified in the Project Information and as indicated on the construction plans and discussed in the pre-quote conference, the Standard Specifications or any Special Provisions attached hereto including, but is not limited to, all mobilizations, demobilizations, control, layout, materials, tools, labor, rentals, consumables, miscellaneous hardware, supporting hardware and software, clearing, grubbing, excavations, hauling operations, filling, rough grading and fine grading, compaction, installation and / or adjustments of stormwater drainage conveyance structures, incidental relocations, structural stabilization, forming, backfilling, sawing exiting concrete and asphalt, furnishing, placing, and finishing concrete, construction joints, ADA accommodations, milling, tacking, furnishing, placing and compaction of asphalt, sedimentation and erosion control, touch-up repairs, security of the work, traffic control and safety operations with associated materials, removal of any debris, cleanup, and disposal(s), special subcontracting, permits and licenses, seeding, mulching, miscellaneous landscaping and relocations, and all else required as necessary, in accordance with the Contract documents, City Technical Standards Manual, Standard Specifications, and Standard Drawings to the satisfaction of the Director and the City of Concord.

**Note:** There will be no payment made for any item of the work not specifically listed as a Quote Pay Item as they are considered incidental to the other Pay Items in the Quote.

**Note:** Any theft of materials or vandalism to the work that occurs during construction, as noted by the Director or his representative, shall be repaired or replaced at the expense of the

Contractor at no cost to the City. Contractor will insure the work until such is completed and accepted by the City.

Forms for billing the City for services performed are to be made on forms provided by the City of Concord. No other forms will be accepted by the City and processed for payment. The Contractor shall submit month invoices (if the work goes beyond one month) by the 25<sup>th</sup> day of each month or interim invoices if so necessitated by certain contracts and as directed by the City, which shall be processed for payment thirty (30) days after receipt. Invoices and time sheets shall be in duplicate – one original set to be attached to invoices for City of Concord Finance Department and one copy to be filed with the Transportation Department.

- 14) Oral Agreements and Claims for Additional Compensation: No oral order, objection, claim or notice by any party to the others shall effect or modify any of the terms of obligations contained in any of the contract documents other than by a definitely agreed upon waiver or modification by both the Contractor and the City in writing.

Any claims for additional compensation shall be submitted in writing to the Director with detailed justification within thirty (30) days after receipt of the final invoice payment. The failure of the Contractor to submit the claim(s) within thirty days shall be a waiver of any such claims and a bar to recovery.

- 15) Contract Time and City's Right to Terminate Contract: This contract shall commence on the effective date given in the Contract Agreement (Notice to Proceed Date) and shall be effective for a period of **NINETY (90)** days. Any requests for extensions to the contract time shall be made in writing by the Contractor and approved by the Director. The City shall have the right to suspend work or to terminate the contract after giving at least **ten (10)** days written notice of suspension or termination to the Contractor.

- 16) Subletting of Contract: The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this contract or any portion thereof, or his right, title or interest therein, without written consent of the City. Subletting of this contract or any portion of the contract shall conform to the provisions of these General Conditions and the Standard Specifications Division 1 - Section 108-6.

- 17) Notices to Proceed: The Contractor shall be ready to perform work operations and stand on emergency call as soon as possible after the issuance of a City Purchase Order Number / Notice to Proceed, but in no event delay the onset of work operations later than **thirty (30)** days of delivery of said City Purchase Order Number / Notice to Proceed.

- 18) Litigation Venue: Any controversy or litigation arising out of this contract shall be resolved in the courts of Cabarrus County, North Carolina and as further stated in **Sec. 15.** of the **CONSTRUCTION CONTRACT FOR Old Charlotte Rd Sidewalk Extension Phase I.** This contract shall be subject to the laws of the State of North Carolina and with respect to this Part 18), time is of the essence.

- 19) Submission and Rejection of Quotes: No Quoter may submit more than one quote. Multiple quotes under different names will not be accepted from one firm or association. A conditional quote will not be accepted. Oral, telephone, facsimile, or telegraph quotes will not be accepted. The Quote Form must be filled out and submitted in the bound documents. All quotes will remain subject to acceptance for the number of days set forth in the Quote Form. The City of Concord reserves the right to reject any or all quotes.

20) Liquidated Damages: The City and Contractor recognize that time is of the essence of this contract and that the City will suffer financial loss if the work is not completed within the contract specified time, plus any extensions thereof allowed in accordance with Part 17) of these General Conditions. They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the City if the work is not completed on time. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the City \$ 200.00 for each calendar day that expires after the contract specified time until the remaining / outstanding work (punchlist) is performed by the Contractor and until such time as punchlist completion and readiness for final payment is made.

In case of joint responsibility for delay in the completion of the work, where two or more separate contracts are in force at the same time and cover work at the same site, liquidated damages assessed against any one Contractor will be based upon the individual responsibility of that Contractor for the delay as determined by, and in the judgment of, the Director.

The City shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to the Contractor, or to initiate applicable dispute resolution procedures and recover liquidated damages for nonperformance of this contract within the specified time of the contract.

Quotes are to be submitted to the following address on or before close of business

**January 3, 2013:**

**Attendance at the Pre-Quote Conference is required  
to submit a Quote**

**J. K. Wilson, III, P.E., Transportation Director  
City of Concord  
850 Warren C. Coleman Blvd. / P.O. Box 308  
Concord, NC 28026-0308**

Please note on outside of the envelope  
Quote Included – **Old Charlotte Rd. Sidewalk Extension Phase I**

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**QUOTE FORM**  
**Old Charlotte Rd Sidewalk Extension Phase I**

<b>BASE QUOTE ITEMS (1 THRU 23)</b>					
<b>Item No.</b>	<b>Description – Base Quote</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Price \$</b>	<b>Item Total \$</b>
<b>Control of Work</b>					
1	Mobilization	LS	1		
2	Site and Traffic Control	LS	1		
<b>Concrete</b>					
3	4" thk. Concrete Sidewalk	SY	380		
4	8" thk. Reinforced Concrete Driveways and Sidewalk (Welded Wire Reinforc.)	SY	185		
5	6" thk. ADA Ramp (includes ADA mats)	SY	0	No bid	\$0.00
6	2'-6" Curb and Gutter	LF	785		
7	Misc. Concrete	CY	10		
<b>Earthwork</b>					
8	Grading and other (includes saw cutting, demolition, disposals, fill material, etc.)	LS	1		
<b>Utility Relocations and Adjustments</b>					
9	Water service and meter	Ea	by City	No bid	\$0.00
10	Sewer service and clean-out	Ea	by City	No bid	\$0.00
<b>Storm Drainage</b>					
11	Catch Basin w/ Open Throat (CB)	EA	2		
12	Catch Basin Frame, Grate, and Hood	EA	0	No bid	\$0.00
13	Dbl. Catch Basin w/ Open Throat (DCB)	EA	1		
14	Junction Box (JB)	EA	1		
15	Flared End Section (FES)	EA	1		
16	15" RCP, Class IV	LF	380		
17	Adjust existing Catch Basins as required	EA	0	No bid	\$0.00
18	NCDOT Class B Rip Rap Outlet Apron	TON	5		
<b>Asphalt / Stone Base</b>					
19	Surface Course 2" - S9.5A	TON	41		
20	Intermediate Course 5" - I19.0.B	TON	26		
21	ABC Stone (6" Curb Base)	TON	76		
22	ABC Stone (Driveway tie-ins, incidental)	TON	200		
<b>Sedimentation and Erosion Control</b>					
23	Seeding and Mulching (includes all other designated erosion control devices)	SY	500		

ALTERNATE QUOTE ITEMS (A-24 THRU A-25)					
Item No.	Description – Alternate Quote	Unit	Quantity	Unit Price \$	Item Total \$
A-24	Soil Analysis and Characterization	Lump Sum	1		
A-25	Removal, Loading, Transport, Disposal and Remediation of Hazardous Soil / Debris	Lump Sum	1		
<b>TOATL BASE QUOTE (ITEMS 1 THRU 23).....</b>					
<b>TOTAL ALTERNATE QUOTE (ITEMS A-24 THRU A-25).....</b>					
<b>TOTAL QUOTE ALL ITEMS.....</b>					

- This quote shall not add any unauthorized additions, deletions, or conditional quote.
- Quoter agrees that any and all excavations are unclassified.
- This quote will remain subject to acceptance for **thirty (30)** days after the date of submittal given above and that once accepted and the Contract executed between the City and the Contractor that the unit prices shall remain as submitted herewith for a period of **three hundred sixty-five (365)** days.
- Quoter agrees that the Work will be 50% complete on a cost basis within **THIRTY-FIVE (35) days** after the Notice to Proceed is executed, 75% complete on a cost basis within **SIXTY (60) days** after the Notice to Proceed is executed; and completed and ready for final payment on or within **NINETY (90) days** after the effective date of the contract (Notice to Proceed date). Time is of the essence.

**Do Not Separate the Quote Form and Signature of Quoter sheets from the Contract Document Book.**

\*\*\*\*\* SIGNATURE OF QUOTER \*\*\*\*\*

*If an Individual*

Contractor's License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

By: \_\_\_\_\_  
(signature of individual)

doing business as: \_\_\_\_\_

Business address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

ATTEST: \_\_\_\_\_

***If a Partnership***

Contractor's License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

By: \_\_\_\_\_  
(firm name)

\_\_\_\_\_  
(signature of general partner)

doing business as: \_\_\_\_\_

Business address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

ATTEST: \_\_\_\_\_ Title: \_\_\_\_\_

***If a Corporation***

Contractor's License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

By: \_\_\_\_\_  
(corporation name)

\_\_\_\_\_  
(signature of authorized official) Title: \_\_\_\_\_

Business address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

ATTEST: \_\_\_\_\_ Title: \_\_\_\_\_

(Seal)

**If a Joint Venture (OTHER PARTY MUST SIGN BELOW)**

***If an Individual***

Contractor's License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

By: \_\_\_\_\_  
(signature of individual)

doing business as: \_\_\_\_\_

Business address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

ATTEST: \_\_\_\_\_

***If a Partnership***

Contractor's License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

By: \_\_\_\_\_  
(firm name)

\_\_\_\_\_  
(signature of general partner)

doing business as: \_\_\_\_\_

Business address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

ATTEST: \_\_\_\_\_ Title: \_\_\_\_\_

*If a Corporation*

Contractor's License Number: \_\_\_\_\_

License Expiration Date: \_\_\_\_\_

By: \_\_\_\_\_  
(corporation name)

\_\_\_\_\_  
(signature of authorized official) Title: \_\_\_\_\_

Business address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

ATTEST: \_\_\_\_\_ Title: \_\_\_\_\_

(Seal)

- Continued Next Page -

**DEBARRED FIRMS CERTIFICATION FORM**

FROM: City of Concord City Council  
P.O. Box 308 - 26 Union Street, South  
Concord, North Carolina 28026-0308

TO: Quoters of **Old Charlotte Rd. Sidewalk Extension Phase I**

The undersigned hereby certifies that the firm of \_\_\_\_\_  
has not been suspended by the State of North Carolina or any Agency or Department thereof for  
conviction or indictment or any of the offences enumerated in N.C.G.S. 133-27 nor will award  
any subcontracts of any tier to firms that have been suspended for conviction or indictment of any  
of the offenses enumerated in N.C.G.S. 133-27.

\_\_\_\_\_  
Name of firm

\_\_\_\_\_  
Signature of authorized official

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Title: \_\_\_\_\_

(Seal)

\_\_\_\_\_ County  
North Carolina

Sworn and Subscribed before me this the \_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
(Print or type name of Notary Public)



**TRANSPORTATION DEPARTMENT  
EXHIBIT "B"**

**SPECIAL CONDITIONS  
OLD CHARLOTTE RD. SIDEWALK EXTENSION PHASE I**

**SC-1. – Pre-Quote Conference and Questions by Quoters**

A qualifying Pre-Quote Conference (walk through of the proposed project) will be held on December 10, 2012 on-site at **9:30 A.M.**, weather permitting. (See attached Plans or call 704-920-5338 if further information is needed). Attendance will be required to submit a quote for this work. All questions about the meaning or intent of the Quoting Documents and the contract documents shall be submitted to the Director at 704-920-5362 for consideration. Any interpretations or clarifications considered necessary by the Director in response to such questions will be issued by Addenda mailed, Faxed or delivered to all parties recorded by the Transportation Department as having received the Quoting Documents package. Quotes will be received on January 3, 2013 by close of business at the office of the Transportation Director, 850 Warren C. Coleman Blvd., Concord, N.C. 28025. Questions received less than 2 days prior to the date for receiving the quotes may not be answered. Only answers issued by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

**SC-2. – General Instructions**

- Quotes may be modified or withdrawn by an appropriate document duly executed and delivered to the place where quotes are to be submitted at any time prior to the opening of the quotes. If, within 24 hours after quotes are opened, and a Quoter files a duly signed, written notice with the City and promptly thereafter demonstrated to the reasonable satisfaction of the City that there was a material and substantial mistake in the preparation of its quote, that Quoter may withdraw its quote. Thereafter, that Quoter will be disqualified from further quoting on the work to be provided under the contract documents.
- The Quote Form furnished by the City shall be used and shall not be altered in any manner. Do not separate the Quote Form from the Quoting Document packet.
- All entries on the Quote Form, including signatures, shall be written in ink.
- The Quoter shall submit a unit price for every item on the Quote Form. The amount quoted for each item shall be determined by multiplying each unit quoted by the quantity for that item.
- The total amount quoted shall be written in the proper place on the Quote Form. The total amount shall be determined by adding the amounts quoted for each item.
- Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. A representative of the Quoter shall initial the change in ink.
- The Quote Form shall be properly executed. All quotes shall show the following information:
  - a. Name of individual, firm, corporation, partnership, or joint venture submitting the quote.
  - b. Name of individual or representative submitting the quote and position or title.
  - c. Name, signature, and position or title of witness.
  - d. Federal Identification Number
  - e. Contractor's License Number
- Quotes submitted by corporations shall bear the seal of the corporation.
- Quotes shall not contain any unauthorized additions, deletions, or conditional quotes.
- The Quoter shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

**SC-3. – Bond for Quoting, Other Bonds**

A bond or deposit for quoting the work is not required. Refer to Sec. 16. Bonding in the Construction Contract document with regards to Performance and Payment Bonds.

**SC-4. – Award, Waiver of Informalities and Right of Rejection**

The award of the contract, if it is to be awarded, will be made based on an evaluation of the total quotes received by responsible Quoters who have attended the Pre-Quote Conference. The City of Concord reserves the right to waive informalities and also reserves the right to reject any or all quotes.

**SC-5. – Privilege License and Sales Taxes**

The selected contractor shall be required to hold a current City of Concord Privilege License. Contact the City of Concord Tax Office at 704-920-5216 for information with regards to this requirement.

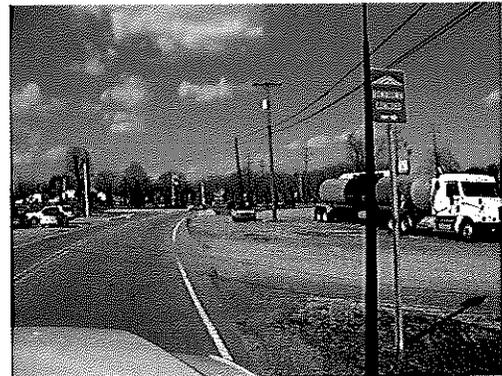
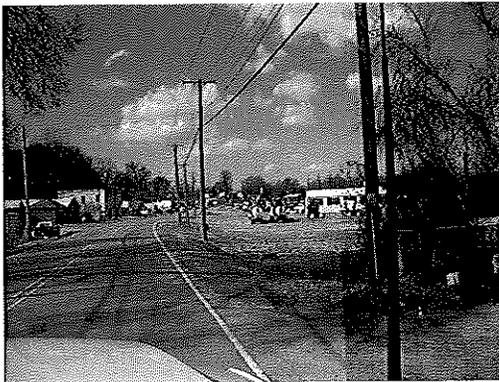
Provisions for sales and use taxes are as set forth by the requirements and direction of the City of Concord Finance Department. Any questions with regards to such shall be coordinated through the City of Concord Finance Department.

**SC-6. – Retainage**

Refer to Sec. 4a. – Retainage of the Construction Contract with regards to retainage.

**SC-7. – Project Location**

Locations of the work shall be that as indicated on the construction plans for the Old Charlotte Rd. Sidewalk Extension Phase I project.



Photos of Project Location

**SC-8. – Certain Provisions Relating to the Project Construction:**

General, Special Notes, Details and Questions

- Refer to the Construction Plans for special details and items of general and special natures. In the event that the Contractor or his subcontractor has a question as to the work, the Contractor will notify the Director or the Director's representative for resolution.

Sedimentation and Erosion Control

- The selected Contractor shall provide sedimentation and erosion control measures as specified on the construction plans or as deemed necessary due to weather conditions as directed by the Director or his designated representative. All measures whether specified on the plans and/or deemed necessary or not covered and considered incidental to the work shall be included in the quoted cost of Earthwork.
- Dust Control measures shall be used to mitigate and control concrete dust from saw cutting operations. At the end of each workday, the Contractor shall clean the site of any debris and waste

materials (such as dust / dirt on the streets or sidewalk) that result from the work and secure the work from any hazardous condition.

#### Control and Disposal of Waste and Debris

- The part of the project work that consists of the control and disposal of waste and debris shall be performed in accordance with Section 802 of the Standard Specifications.
- No reports or technical data relating to the presence of hazardous environment debris, waste or conditions for the project, if any, have been made. As such, the Contractor shall be responsible for the determination and evaluation of any hazardous environmental debris, waste or condition which may be present within the scope of the Work and project site prior to submitting a Quote. Contractor shall also be responsible for any hazardous environmental debris, waste or condition created with any materials brought to the project site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible. If any hazardous environmental debris, waste, or condition is encountered, or created in the course of the Work, Contractor must be fully able with his own qualified / certified forces and/or qualified / certified subcontracted forces to evaluate, control, secure, mitigate, dispose of, and render safe such debris, waste or condition(s) in accordance with the Standard Specifications. All costs associated with evaluating, controlling, securing, mitigating, disposing, and rendering safe a hazardous environmental condition(s) shall be the responsibility of the Contractor.
- The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time. Hazardous Environmental Condition shall be defined as the presence at the project site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

NOTE: There will be no payment made for any items of the work covered by this section and not specifically listed as a Quote Pay Items as they are considered incidental to the other Pay Items in the Quote.

#### Project Rights-of Way and Construction Easements

- In the event that the Contractor or his Subcontractor has a question with regards to right(s)-of-way or easement(s), said question shall be directed to the City of Concord Engineering Surveying Section for resolution. Any lines of easement or right-of-way shown on the plans are for general information only and do not represent the exact field location of such item.
- Note – City reserves the right to delay construction on certain sections of the project alignment as discussed during the Pre-Quote Conference due to inability of the City to obtain right-of-way or construction easements.

#### Sidewalks, Curb and Gutter and Wheelchair Ramps (Concrete Work)

- Concrete strength for this project shall be 3600 psi unless otherwise specified.
- Sidewalk joint spacing shall be no less than 5-ft.
- Seal expansion joints where sidewalk and wheelchair ramps are placed adjacent to the curb and gutter.
- Width shall be as designated by the construction plans or Director's representative.
- Do not seal groove joints.
- Where sidewalks are less than 5-ft. wide, a passing zone shall be installed at the direction of the Director's representative, but in no case shall a passing zone be greater than 200-ft.
- Sidewalks are to be sloped at ¼-in. / 1-ft. towards the gutter and shall have a light broom finish.
- Where construction crosses a driveway, the sidewalk shall be 8-in. thick. "High Early Strength Concrete" with welded wire reinforcement and is to be placed at driveway crossings or as specified by the Director's representative.
- Do not place vehicles on the completed curb and gutter work until after 7 curing days or 3 curing days if "High Early Strength Concrete" is used.
- Refer to North Carolina Department of Transportation Raleigh, "Highway Design Branch Roadway Standard Drawings" Latest Ed. with respect to Curb and Gutter work.

- Wheelchair access points to streets shall be in accordance with Standard Drawings the plans. Detectable Domes shall be of the color RED.
- Use of accelerants to be discussed at Pre-Quote Conference.

#### Stormwater Piping

- Questions with regards to lines, grades, typical cross-sections, location – vertical and horizontal - of stormwater structures such be directed to the Director or the Director’s representative. Contractor shall verify project construction control and provide all construction layouts.
- Inverts in junction boxes, catch basins shall be smooth and shall formed so as minimize sediment accumulation.
- Lids and covers shall be traffic or pedestrian rated as warranted or determined by the Director or the Director’s representative and shall be flush with the travel surface except where designed to provide an inlet for stormwater flows.

#### Filling and Backfilling

- Fill material estimated to be approximately 1,500 CY; to be discussed at Pre-Quote meeting.
- Do not place blackfill adjacent to fresh concrete until at least 3 curing days.
- Compact backfill to the satisfaction of the Director’s representative.
- Complete backfill within 4 calendar days after the completion of the 3-day curing period.

#### Asphalt

- Placement of asphalt material shall be made in a continuous operation. Do not begin work on another section of roadway unless satisfactory progress is being and all other required incidental work is complete.
- Place asphalt concrete base course material with asphalt pavement spreaders made for such purpose, or with other equipment approved by the Engineer.
- The actual asphalt binder content will be established during construction by the Director or the Director’s representative within the limits established in the Standard Specifications. In the event that a different mix is specified by the Director or proposed in writing by the Contractor, and if the Contractor and the Director mutually agree to a contract unit price for the new mix type Pay Item, payment will be made in accordance with the appropriate Method of Measurement and Basis of Payment given in the General Conditions.

#### Utility Relocations

- All utility service relocations shall be in accordance with the contract documents, referenced specifications and contract drawings. Questions with regards to such are to be directed to the Director or the Director’s representative.
- Utility pole(s) and overhead utilities will be relocated by the City of Concord with scheduling to be coordinated between the Contractor and the City of Concord; to be discussed at Pre-Quote Conference.

#### Construction Layout and Staking

- Questions with regards to lines, grades, typical cross-sections, location – vertical and horizontal - of structures such be directed to the Director or the Director’s representative. Contractor shall verify project construction control and provide for all construction layouts.

#### **SC-9. – Repairs to work Final and Acceptance of the Work**

If failure of an item of work occurs within the time of the contract, the Contractor shall begin to make necessary repair(s) within two weeks, weather pending. Should the Contractor fail to make necessary repairs within the given time frames established, the City of Concord will make repairs and shall be reimbursed by the Contractor for all labor, tools, and materials necessary to correct the failure. Such reimbursements shall be deducted from the money due the Contractor or shall be billed to Contractor.

The Director or the Director’s representative reserves the right to perform the final (and all) inspection(s) and make all final acceptance of the work. The Contractor will be responsible for protection from vandalism and

maintenance of newly installed, fresh poured concrete such as sidewalk sections, wheelchair ramps, curb and gutter, etc. prior to acceptance by the City.

**SC-10. Work Scheduling and Submission of Pay Requests**

All submission of pay requests shall be coordinated through the Director or the Director's representative(s). Scheduling of work with associated pay requests for work performed and required reporting documents shall be discussed at the Pre-Quote Conference.

**SC-10. – Davis Bacon Requirements and Reporting**

The Old Charlotte Rd. Sidewalk Extension Phase I Project, which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions, are included in this Contract pursuant to the provisions applicable to such Federal assistance. The Contractor shall follow all requirements of the Davis Bacon and Related Acts (DBRA)

During the period that covered work is being performed on a contract subject to the DBRA, the Contractor must post copies of Notice to Employees Working on Government Contracts Poster, the Federal Minimum Wage Poster, and the Federal Minimum Wage Poster in Spanish in a sufficient number of places to permit employees to observe a copy on the way to or from their place of employment.

DBRA Forms and Posters for use by Quoters are hereby attached and made part of the Special Conditions (see following DBRA Forms and Posters for use).

**SC-11. – EEO, Minority Disadvantaged Business Participation, Reporting and Drug Free Work Place**

The local government of the City of Concord does not discriminate in administering any of its programs and activities. The Contractor awarded the contract for work will be required to assure that no person shall be denied employment or fair treatment, or in any way discriminated against on the basis of race, sex, religion, age, national origin, or disability. In accordance with 1 NC Administrative Code 30 I.0101, it is the policy of the City of Concord that Quoters undertake good faith efforts to recruit minority – disadvantaged business participation in the work. Reference the City of Concord DBE Program Policy Statement following. Quoters will need to provide an affidavit of good faith efforts to comply with this policy as part of submitting a responsive quote. Firms proposed by Quoters as a participating minority and disadvantaged business with current certification by the NCDOT will be considered acceptable for listing in the Quoter's submittal of MBE-DBE participation.

It is an absolute requirement of the City of Concord that the project work site and work force be drug free and that associated individuals, including subcontractors, working on the project be free of prior or pending felony convictions, the qualifications statement should include a commitment to this requirement and an indication of the plan of the firm to ensure compliance with this requirement.

In addition to all DBRA reporting requirements to the City's Business and Neighborhood Development office and record retention requirements, the Contractor shall also submit a copy of the minority – disadvantaged business participation statement with the final payment invoice to report all minority – disadvantaged business participation on the project to the Project Inspector, Alfred M. Brown Operations Center, 850 Warren C. Coleman Blvd., Concord, N.C. 28025 for forwarding to the MDBP representative in the City of Concord Finance Dept. In the event that the Contractor had no minority – disadvantaged business participation on the project, the Contractor will still be required to submit such reporting as no participation. Where participation is from minority – disadvantaged business material suppliers or manufacturers, the statement shall indicate the appropriate percentage (60% for regular dealers and 100% for manufacturers) of expenditures to be reported. The final invoice will not be processed without submission of the report.

MBE-DBE Forms for use by Quoters in making said good faith efforts to recruit minority – disadvantaged business participation in the project and are hereby attached and made part of the Special Conditions (see following MBE-DBE Forms for use as affidavits for the City's MBE-DBE policy).

TRANSPORTATION DEPARTMENT  
EXHIBIT "B"

SPECIAL CONDITIONS  
OLD CHARLOTTE RD. SIDEWALK EXTENSION PHASE I

DAVIS BACON  
AND RELATED ACTS  
(DBRA)

DOCUMENTS  
FOLLOWING:

## **Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA)**

This fact sheet provides general information concerning DBRA.

### **Coverage**

DBRA requires payment of prevailing wages on federally funded or assisted construction projects. The Davis-Bacon Act applies to each federal government or District of Columbia contract in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Many federal laws that authorize federal assistance for construction through grants, loans, loan guarantees, and insurance are Davis-Bacon "related Acts." The "related Acts" include provisions that require Davis-Bacon labor standards apply to most federally assisted construction. Examples of "related Acts" include the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

### **Basic Provisions/Requirements**

Contractors and subcontractors must pay laborers and mechanics employed directly upon the site of the work at least the locally prevailing wages (including fringe benefits), listed in the Davis-Bacon wage determination in the contract, for the work performed. Davis-Bacon labor standards clauses must be included in covered contracts.

The Davis-Bacon "prevailing wage" is the combination of the basic hourly rate and any fringe benefits listed in a Davis-Bacon wage determination. The contractor's obligation to pay at least the prevailing wage listed in the contract wage determination can be met by paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits. Prevailing wages, including fringe benefits, must be paid on all hours worked on the site of the work.

Apprentices or trainees may be employed at less than the rates listed in the contract wage determination only when they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department.

Contractors and subcontractors are required to pay covered workers weekly and submit weekly certified payroll records to the contracting agency. They are also required to post the applicable Davis-Bacon wage determination with the Davis-Bacon poster (WH-1321) on the job site in a prominent and accessible place where they can be easily seen by the workers.

### **Davis-Bacon Wage Determinations**

Davis-Bacon wage determinations are published on the Wage Determinations On Line (WDOL) website for contracting agencies to incorporate them into covered contracts. The "prevailing wages" are determined based on wages paid to various classes of laborers and mechanics employed on specific types of construction projects in an area. Guidance on determining the type of construction is provided in All Agency Memoranda Nos. 130 and 131.

## **Penalties/Sanctions and Appeals**

Contract payments may be withheld in sufficient amounts to satisfy liabilities for underpayment of wages and for liquidated damages for overtime violations under the Contract Work Hours and Safety Standards Act (CWHSSA). In addition, violations of the Davis-Bacon contract clauses may be grounds for contract termination, contractor liability for any resulting costs to the government and debarment from future contracts for a period up to three years.

Contractors and subcontractors may challenge determinations of violations and debarment before an Administrative Law Judge (ALJ). Interested parties may appeal ALJ decisions to the Department's Administrative Review Board. Final Board determinations on violations and debarment may be appealed to and are enforceable through the federal courts.

## **Typical Problems**

(1) Misclassification of laborers and mechanics. (2) Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours). (3) Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day. (4) Failure of to maintain a copy of bona fide apprenticeship program and individual registration documents for apprentices. (5) Failure to submit certified payrolls weekly. (6) Failure to post the Davis-Bacon poster and applicable wage determination.

## **Relation to State, Local, and Other Federal Laws**

The Copeland "Anti-Kickback" Act prohibits contractors from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment, and requires contractors to submit a weekly statement of the wages paid to each employee performing DBRA covered work.

Contractors on projects subject to DBRA labor standards may also be subject to additional prevailing wage and overtime pay requirements under State (and local) laws. Also, overtime work pay requirements under CWHSSA) and the Fair Labor Standards Act may apply.

Under Reorganization Plan No. 14 of 1950, (5 U.S.C.A. Appendix), the federal contracting or assistance-administering agencies have day-to-day responsibility for administration and enforcement of the Davis-Bacon labor standards provisions and, in order to promote consistent and effective enforcement, the Department of Labor has regulatory and oversight authority, including the authority to investigate compliance.

## **Where to Obtain Additional Information**

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
**Contact Us**

## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) **Minimum Wages.** 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 29 CFR 5.5(a)(1)(iv); 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 29 CFR 5.5(a)(1)(ii) 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.

(ii) (a) Any class of laborers or mechanics 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. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
  - (b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee 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 HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)
  - (c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)
  - (d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, 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.
  - (iii) 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.
  - (iv) 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. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee 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, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, 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. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. 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 HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, 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 subparagraph 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 HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) 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:

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

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

(3) 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.

(c) 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 subparagraph A.3.(ii)(b).

(d) 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.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee 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, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, 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.

(i) **Apprentices.** 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.

(ii) **Trainees.** 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 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.

(III) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**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 will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses 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 this paragraph.

**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 HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (I) Certification of Eligibility.** 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) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) 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) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. 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 the individual is employed on such work to work in excess of 40 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 40 hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, 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 subparagraph (1) of this paragraph, 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 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee 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 contract, 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 subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph 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 subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

General Decision Number: NC120090 01/06/2012 NC90

Superseded General Decision Number: NC20100127

State: North Carolina

Construction Type: Highway

Counties: Anson, Cabarrus, Gaston, Mecklenburg and Union Counties in North Carolina.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction, and other major bridges).

Modification Number      Publication Date  
 0                              01/06/2012

SUNC2011-071 09/16/2011

	Rates	Fringes
CARPENTER (Form Work Only).....	\$ 14.70	
CEMENT MASON/CONCRETE FINISHER		
Anson, Cabarrus, and		
Gaston County.....	\$ 12.87	
Mecklenburg County.....	\$ 12.62	
Union County.....	\$ 12.75	
INSTALLER - GUARDRAIL		
(Includes Guardrail/Post		
Driver Work).....	\$ 11.36	
IRONWORKER, REINFORCING.....	\$ 14.88	
LABORER		
Asphalt, Asphalt		
Distributor, Raker, and		
Spreader.....	\$ 11.78	
Common or General		
Anson and Cabarrus		
Counties.....	\$ 11.14	
Gaston County.....	\$ 10.63	
Mecklenburg County.....	\$ 11.55	
Union County.....	\$ 10.32	
Concrete Saw.....	\$ 14.26	
Landscape.....	\$ 10.35	
Luteman.....	\$ 12.88	
Mason Tender -		
Cement/Concrete.....	\$ 11.25	
Pipelayer.....	\$ 12.93	
Traffic Control - Conc		
Setter.....	\$ 12.53	
Traffic Control - Flagger...	\$ 9.99	

## POWER EQUIPMENT OPERATOR:

Backhoe/Excavator/Trackhoe	
Anson, Cabarrus, and	
Gaston Counties.....	\$ 14.21
Mecklenburg County.....	\$ 13.79
Union County.....	\$ 14.53
Broom/Sweeper.....	\$ 13.97
Bulldozer	
Anson, Cabarrus, and	
Gaston Counties.....	\$ 15.46
Mecklenburg County.....	\$ 15.90
Union County.....	\$ 14.96
Crane.....	\$ 19.11
Curb Machine.....	\$ 14.43
Distributor.....	\$ 14.99
Drill.....	\$ 16.68
Grader/Blade	
Anson, Cabarrus, Gaston,	
and Union Counties.....	\$ 17.99
Mecklenburg County.....	\$ 18.65
Loader	
Anson, Cabarrus, Gaston,	
and Union Counties.....	\$ 14.46
Mecklenburg County.....	\$ 14.43
Mechanic.....	\$ 17.13
Milling Machine.....	\$ 15.80
Oiler.....	\$ 14.36
Paver.....	\$ 16.65
Roller	
Anson, Cabarrus, Gaston,	
and Union Counties.....	\$ 13.22
Mecklenburg County.....	\$ 13.29
Scraper.....	\$ 15.85
Scroed.....	\$ 15.23
Tractor.....	\$ 14.47

## TRUCK DRIVER

4 Axle Truck.....	\$ 11.90
Distributor.....	\$ 16.75
Dump Truck	
Anson, Cabarrus, and	
Gaston Counties.....	\$ 13.46
Mecklenburg County.....	\$ 13.79
Union County.....	\$ 13.49
Flatbed Truck.....	\$ 15.02
Lowboy Truck	
Anson, Cabarrus, Gaston,	
and Mecklenburg Counties...	\$ 15.26
Union County.....	\$ 15.23
Off the Road Truck.....	\$ 15.00
Single Axle Truck.....	\$ 12.13
Tack Truck.....	\$ 16.52
Water Truck.....	\$ 13.16

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

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

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

#### Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows 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. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rate.

#### Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SOLA2004-007 5/13/2010. SU indicates the rates are not union rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

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#### WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

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

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

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

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

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

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END OF GENERAL DECISION

**SERVICE CONTRACT ACT (SCA)** or

**PUBLIC CONTRACTS ACT (PCA)**

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**MINIMUM WAGES** Your rate must be no less than the Federal minimum wage established by the Fair Labor Standards Act (FLSA).

A higher rate may be required for SCA contracts if a wage determination applies. Such wage determination will be posted as an attachment to this Notice.

**FRINGE BENEFITS** SCA wage determinations may require fringe benefit payments (or a cash equivalent). PCA contracts do not require fringe benefits.

**OVERTIME PAY** You must be paid 1.5 times your basic rate of pay for all hours worked over 40 in a week. There are some exceptions.

**CHILD LABOR** No person under 16 years of age may be employed on a PCA contract.

**SAFETY & HEALTH** Work must be performed under conditions that are sanitary and not hazardous or dangerous to employees' health and safety.

**ENFORCEMENT** Specific DOL agencies are responsible for the administration of these laws. To file a complaint or obtain information for: Contact the Wage and Hour Division by calling its toll-free help line at 1-866-4-USWAGE (1-866-487-9243), or visit its Web site at [www.wagehour.dol.gov](http://www.wagehour.dol.gov).

Contact the Occupational Safety and Health Administration (OSHA) by calling 1-800-321-OSHA (1-800-321-6742), or visit its Web site at [www.osha.gov](http://www.osha.gov).

its awarded by the Government prime contractor.

visions of the act except the safety and health requirements are administered by the Wage and Hour Division.

**Minimum Wage** — Covered employees must currently be paid not less than the Federal minimum wage established in section 6(a) of the Fair Labor Standards Act.

**Overtime** — Covered workers must be paid at least one and one-half times their basic rate of pay for all hours worked in excess of 40 hours a week. Overtime is due on the basis of the total hours spent in all work, Government and non-Government, performed by the employee in which covered work is performed.

**Child Labor** — Employers may protect themselves against unintentional child labor violations by obtaining certificates of age. State employment certificates are acceptable.

**Safety and Health** — No covered work may be performed in plants, factories, buildings, or surroundings or under work conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in the performance of the contract. The safety and health provisions of the Walsh-Healey Public Contracts Act are administered by the Occupational Safety and Health Administration.

**Posting** — During the period that covered work is being performed on a contract subject to the act, the contractor must post copies of the act in conspicuous places where employees working on Government Contracts in a sufficient number of places to permit employees to observe a copy on the way to or from the place of employment.

**Liability for Secondary Contractors** — Prime contractors are liable for violations of the act committed by their subcontractors and secondary contractors.

## Service Contract Act

**General Provisions** — The Service Contract Act applies to every contract entered into by the United States or the District of Columbia the principal purpose of which is to furnish services in the United States through the use of service employees. Contractors and subcontractors performing on such Federal contracts must observe minimum wage and safety and health standards, and must maintain certain records, unless a specific exemption applies.

**Wages and Fringe Benefits** — Every service employee performing any of the Government contract work under a service contract in excess of \$2,500 must be paid not less than the monetary wages, and must be furnished the fringe benefits, which the Secretary of Labor has determined to be prevailing in the locality for the classification in which the employee is working or the wage rates and fringe benefits (including accrued or prospective wage rates and fringe benefits) contained in a predecessor contractor's collective bargaining agreement. The minimum wage and fringe benefits required are usually specified in the contract but in no case may employees doing work necessary for the performance of a contract be paid less than the minimum wage established in section 6(a)(1) of the Fair Labor Standards Act.

Contracts which do not exceed \$2,500 are not subject to prevailing rate determinations or to the safety and health requirements of the act. However, the act does require that employees performing work on such contracts be paid not less than the minimum wage rate established in section 6(a)(1) of the Fair Labor Standards Act.

**Overtime** — The Fair Labor Standards Act and the Contract Work Hours Safety Standards Act may require the payment of overtime at one and one-half the regular rate of pay for all hours work on the contract in excess of 40 a week. The Contract Work Hours Safety Standards Act is limited in scope than the Fair Labor Standards Act and generally applies to Government contracts in excess of \$100,000 that require the employment of laborers, mechanics, guards, watchmen.

**Safety and Health** — The act provides that no part of the services in contracts in excess of \$2,500 may be performed in buildings or under working conditions, provided by or under the control or supervision of the contractor or subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish the services. The safety and health provisions of the Service Contract Act are administered by the Occupational Safety and Health Administration.

**Notice to Employees** — On the date a service employee commences work on a contract in excess of \$2,500, the contractor (contractor) must provide the employee with a notice of the compensation required by the act. The posting of the notice (including any applicable termination) contained on the reverse in a location where it may be seen by all employees performing on the contract will satisfy the requirement.

**Notice in Subcontracts** — The contractor is required to insert in all subcontracts the labor standards clauses specified by the regulations in Part 4 for Federal service contracts exceeding \$2,500.

# \$7.25 PER HOUR

BEGINNING JULY 24, 2009

## **OVERTIME PAY**

At least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.

## **CHILD LABOR**

An employee must be at least **16** years old to work in most non-farm jobs and at least **18** to work in non-farm jobs declared hazardous by the Secretary of Labor.

Youths **14** and **15** years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:

### ***No more than***

- **3** hours on a school day or **18** hours in a school week;
- **8** hours on a non-school day or **40** hours in a non-school week.

Also, work may not begin before **7 a.m.** or end after **7 p.m.**, except from June through Labor Day, when evening hours are extended to **9 p.m.** Different rules apply in agricultural employment.

## **TIP CREDIT**

Employers of “tipped employees” must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

## **ENFORCEMENT**

The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.

Employers may be assessed civil money penalties of up to \$1,100 for each willful or repeated violation of the minimum wage or overtime pay provisions of the law and up to \$11,000 for each employee who is the subject of a violation of the Act's child labor provisions. In addition, a civil money penalty of up to \$50,000 may be assessed for each child labor violation that causes the death or serious injury of any minor employee, and such assessments may be doubled, up to \$100,000, when the violations are determined to be willful or repeated. The law also prohibits discriminating against or discharging workers who file a complaint or participate in any proceeding under the Act.

## **ADDITIONAL INFORMATION**

- Certain occupations and establishments are exempt from the minimum wage and/overtime pay provisions.
- Special provisions apply to workers in American Samoa and the Commonwealth of Northern Mariana Islands.
- Some state laws provide greater employee protections; employers must comply with both.
- The law requires employers to display this poster where employees can readily see it.
- Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer.
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

## A PARTIR DEL 24 DE JULIO DE 2009

### E TEMPO

Por lo menos tiempo y medio (1½) de su tasa regular de pago por todas las horas trabajadas de 40 en una semana laboral.

### DE ES DE

El empleado ha de tener por lo menos **16** años de edad para trabajar en la mayoría de los trabajos agrícolas y por lo menos tener **18** años para trabajar en trabajos no agrícolas declarados arriesgados por el/la Secretario(a) de Trabajo.

Jóvenes de **14** y **15** años de edad pueden trabajar fuera de horas escolares en varios trabajos sean en fabricación, minería, o arriesgados, bajo las siguientes condiciones:

#### **No más de**

- **3** horas en un día escolar o **18** horas en una semana escolar;
- **8** horas en un día no escolar o **40** horas en una semana no escolar.

Además, el trabajo no puede empezar antes de las **7 de la mañana** o terminar después de las **9 de la noche** salvo del primero de junio hasta el Día de Labor, cuando las horas de la tarde se extienden hasta las **9 de la noche**. Se aplican reglas distintas al empleo agrícola.

### PO AS

Empresarios de empleados que reciben propinas han de pagar un salario en efectivo de por lo menos \$2.13 por hora si declaran un crédito por propina contra sus obligaciones hacia el salario mínimo. Las propinas del empleado combinadas con el salario en efectivo que paga el empresario de por lo menos \$2.13 por hora no equivalen al salario mínimo por hora, el empresario ha de suplir la diferencia. El empresario se tiene que cumplir con otras condiciones.

### MIENTO

El Departamento de Trabajo puede recuperar salarios atrasados administrativamente o medianamente en los tribunales, para empleados a los cuales se les haya pagado por debajo y en violación de la Ley.

A los empresarios se les puede imponer penas pecuniarias civiles de hasta \$1,100 por cada infracción intencional o repetida de las provisiones de la ley del pago del salario mínimo y del pago de sobretiempo y hasta \$11,000 por cada empleado que sea empleado en violación de las provisiones de la ley sobre el empleo de menores. Adicionalmente, se puede imponer una pena pecuniaria civil de hasta \$100,000 por cada infracción de las provisiones sobre el empleo de menores si causa la muerte o una lesión grave de un empleado menor de edad, y se pueden doblar dichas evaluaciones, hasta \$100,000, cuando se determinan que las infracciones son intencionales o repetidas. La ley también prohíbe la discriminación o el despido del trabajador por haber presentado una denuncia o por participar en cualquier procedimiento bajo la Ley.

### CIÓN IAL

- Ciertas ocupaciones y ciertos establecimientos están exentos de las provisiones de pago del salario mínimo y de sobretiempo.
- Se aplican provisiones especiales a trabajadores de Samoa Americana y de la Comunidad de las Islas Marianas del Norte.
- Algunas leyes estatales proveen más protecciones al empleado; el empresario ha de cumplir con ambas.
- La ley exige que los empresarios pongan este cartel donde los empleados lo puedan ver fácilmente.
- A los empleados menores de 20 años de edad se les puede pagar menos de \$4.25 por hora los primeros 90 días civiles consecutivos de empleo con un empresario.
- Se les puede pagar menos del salario mínimo bajo ciertos certificados especiales emitidos por el Departamento de Trabajo a ciertos estudiantes de tiempo completo, estudiantes aprendices y a trabajadores con impedimentos.



# State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of \_\_\_\_\_

(Name of Bidder)

Affidavit of \_\_\_\_\_

I have made a good faith effort to comply under the following areas checked:

**Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive.** (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts) Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts) Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts) Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts) Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts) Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts) Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts) Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts) Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts) Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts) Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

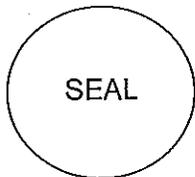
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of North Carolina, County of \_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Notary Public \_\_\_\_\_  
My commission expires \_\_\_\_\_

# State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract with Own Workforce.

County of \_\_\_\_\_

Affidavit of \_\_\_\_\_

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the \_\_\_\_\_

contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

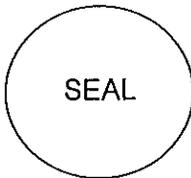
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of North Carolina, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

# State of North Carolina - AFFIDAVIT C - Portion of the Work to be Performed by Minority Firms

County of \_\_\_\_\_

**(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)**

If the portion of the work to be executed by minority businesses as defined in GS143-128.2(g) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of \_\_\_\_\_ I do hereby certify that on the \_\_\_\_\_  
(Name of Bidder)

\_\_\_\_\_ (Project Name)  
 Project ID# \_\_\_\_\_ Amount of Bid \$ \_\_\_\_\_

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. Attach additional sheets if required

Name and Phone Number	*Minority Category	Work description	Dollar Value

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

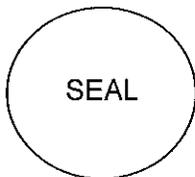
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of North Carolina, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

**State of North Carolina**

**AFFIDAVIT D – Good Faith Efforts**

County of \_\_\_\_\_

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the goal of 10% participation by minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

(Name of Bidder)

Affidavit of: \_\_\_\_\_  
 I do certify the attached documentation as true and accurate representation of my good faith efforts.

(Attach additional sheets if required)

Name and Phone Number	*Minority Category	Work description	Dollar Value

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions. Examples of documentation include, but are not limited to, the following evidence:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of North Carolina, County of \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
 Notary Public \_\_\_\_\_  
 My commission expires \_\_\_\_\_

## CITY OF CONCORD DBE PROGRAM

### POLICY STATEMENT

#### Section 26.1, 26.23

#### Objectives/Policy Statement

The City of Concord has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Concord has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Concord has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Concord to ensure that DBEs as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The City's Purchasing Officer has been designated as the DBE Liaison Officer. In that capacity, Purchasing Officer is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Concord in its financial assistance agreements with the Department of Transportation.

The City of Concord has disseminated this policy statement to the Concord City Council and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The policy statement is available in the City Clerk's office and the DBE Liaison's office and will be mailed to all parties requesting a copy or a City transportation-related RFP, or expressing an interest in obtaining a transportation-related contract with the City.

W. Ben Hill 11/12/2010  
City Manager Date



**EXHIBIT "C"  
ATTACHMENT SHEET FOR  
QUOTE BOND**

**NOT REQUIRED**

**TRANSPORTATION DEPARTMENT**

**P.O. Box 308 - 850 Warren C. Coleman Blvd.  
Concord, North Carolina 28026-0308  
704-920-5331**



**EXHIBIT "D"**  
**NOTICE OF AWARD AND ACCEPTANCE OF NOTICE**

**TO:**

**FROM:** City of Concord  
P.O. Box 308 - 26 Union Street, South  
Concord, North Carolina 28026-0308

**PROJECT: Old Charlotte Rd Sidewalk Extension Phase I**

You are hereby notified that the Quote submitted by you for the above named project in response to the City of Concord's Solicitation of Quotes dated November 29, 2012, in the amount of \_\_\_\_\_ sixteen and /100.....DOLLARS (\$) has been accepted.

You are hereby requested to execute the formal Contract with the City of Concord and to furnish your Contractor's Certificate of Insurance, Performance Bond, Payment Bond, and associated Power of Attorney(s) along with any other documents pertaining to the work as designated by the City of Concord.

Dated this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

City of Concord, North Carolina

By: \_\_\_\_\_  
Title: City Manager

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT "E"**  
**ATTACHMENT SHEET FOR**  
**CERTIFICATE(S) OF INSURANCE**

(Refer to the Standard Form Construction Contract for other information and directions for insurance certificates.)

**TRANSPORTATION DEPARTMENT**

**P.O. Box 308 - 850 Warren C. Coleman Blvd.**  
**Concord, North Carolina 28026-0308**  
**704-920-5331**



**EXHIBIT "F"  
ATTACHMENT SHEET FOR  
PAYMENT BOND**

**TRANSPORTATION DEPARTMENT**

**P.O. Box 308 - 850 Warren C. Coleman Blvd.  
Concord, North Carolina 28026-0308  
704-920-5331**

**PERFORMANCE BOND**

Date of Execution of this Bond \_\_\_\_\_

Name and Address of Principal (Contractor) \_\_\_\_\_  
\_\_\_\_\_

Name and Address of Surety \_\_\_\_\_  
\_\_\_\_\_

Name and Address of Contracting Body City of Concord  
26 Union Street, South P.O. Box 308  
Concord, North Carolina 28025

Amount of Bond \_\_\_\_\_  
\_\_\_\_\_

Contract That certain contract by and between the Principal and the Contracting Body above named dated Notice to Proceed Date specified on EXHIBIT H

**For: Old Charlotte Rd Sidewalk Extension Phase I**

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above-named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, identified as shown above and hereto attached;

NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise, to remain in full force and virtue.

**PERFORMANCE BOND: (Continued)**

THIS PERFORMANCE BOND is made and given pursuant to the requirements and provisions of Section 129 of Chapter 143 of the General Statutes of North Carolina and pursuant to Article 3 of Chapter 44-A of the General Statutes of North Carolina, and each and every provision set forth and contained in Section 129 of Chapter 143 and in Article 3 of Chapter 44-A of the General Statutes of North Carolina is incorporated herein, made a part hereof, and deemed to be conclusively written into this Bond.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals as of the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned and representative, pursuant to authority of its governing body.

WITNESS:

\_\_\_\_\_  
Principal (Name of individual and trade name,  
partnership, corporation, or joint venture)

\_\_\_\_\_  
(Proprietorship or Partnership)

BY \_\_\_\_\_ (SEAL)

TITLE \_\_\_\_\_  
(Owner, Partner, Office held in  
corporation, joint venture)

ATTEST: (Corporation)

**(Corporate Seal of Principal)**

BY \_\_\_\_\_

TITLE \_\_\_\_\_  
(Corporation Secretary or  
Assistant Secretary Only)

\_\_\_\_\_  
Surety (Name of Surety Company)

WITNESS:

BY \_\_\_\_\_

TITLE \_\_\_\_\_ Attorney in Fact

**(Corporate Seal of Surety)**

COUNTERSIGNED:

\_\_\_\_\_  
(Address of Attorney in Fact)

\_\_\_\_\_  
N.C. Licensed Resident Agent



**EXHIBIT "G"**  
**FINANCE DEPARTMENT**  
**SUPPLIED FORMS**

(Refer to the following forms for Sales Tax and Payment Requests.)

**TRANSPORTATION DEPARTMENT**  
**P.O. Box 308 - 850 Warren C. Coleman Blvd.**  
**Concord, North Carolina 28026-0308**  
**704-920-5331**

City of Concord  
Post Office Box 308  
Concord, North Carolina 28026-0308

For Office Use Only:

Charge to P.O. # \_\_\_\_\_

Due \_\_\_\_\_

**PROJECT: Old Charlotte Rd Sidewalk Extension Phase I**

Date Notice to Proceed: \_\_\_\_\_

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

Days Remaining in Contract: \_\_\_\_\_

Percent Work Complete: \_\_\_\_\_

Percent Time Complete: \_\_\_\_\_

Percent Payment Complete: \_\_\_\_\_

**APPLICATION FOR PAYMENT NO. \_\_\_\_\_ SHEET NO. \_\_\_\_\_ OF \_\_\_\_\_**

**PERIOD FROM: \_\_\_\_\_ TO: \_\_\_\_\_**

CERTIFICATE OF THE CONTRACTOR

To the best of my knowledge and belief, I certify that this periodical estimate is correct and all work has been performed and materials supplied in full accordance with the terms and conditions of the contract documents between the undersigned contractor and the City of Concord.

<b>GROSS AMOUNT OF PARTIAL PAYMENT</b> - - -	\$
<b>LESS: RETAINAGE AT</b> <u>   </u> <b>PERCENT</b> - - - - -	\$
<b>PREVIOUS PAYMENT</b> - - - - -	\$
<b>LIQUIDATION DAMAGES</b>	
<u>   </u> <b>DAYS @ \$200.00</b> - - - - -	\$
<b>OTHER DEDUCTIONS:</b>	
_____ - - - - -	\$
_____ - - - - -	\$

**TOTAL DEDUCTIONS** - - - - - \$

**NET AMOUNT DUE THIS ESTIMATE** - - - - - \$

Name of Contractor: \_\_\_\_\_ Address: \_\_\_\_\_

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

CERTIFICATE OF CONSTRUCTION ADMINISTRATOR/ENGINEER

I certify that I have verified this periodical estimate and that to the best of my knowledge and belief, it is a true and correct statement of work performed and materials supplied under the contract.

Consultant Engineer: \_\_\_\_\_ Date: \_\_\_\_\_

Construction Administrator: \_\_\_\_\_ Date: \_\_\_\_\_

**APPROVED AND PAYMENT RECOMMENDED:**  
CITY OF CONCORD

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_





**EXHIBIT "H"**  
**NOTICE TO PROCEED - DATE OF AVAILABILITY**

**TO:**

**FROM:** City of Concord  
P.O. Box 308 - 26 Union Street, South  
Concord, North Carolina 28026-0308

**PROJECT:** Old Charlotte Rd. Sidewalk Extension Phase I

**PROJECT DESCRIPTION:** The work includes, but is not limited to, the selected Contractor performing work on the Old Charlotte Rd. Sidewalk Extension Phase I for the construction and installation of facilities as indicated on the construction plans and discussed in the pre-quote walk through including, but is not limited to, all mobilizations, demobilizations, control, layout, materials, tools, labor, rentals, consumables, miscellaneous hardware, supporting hardware and software, clearing, grubbing, excavations, hauling operations, filling, rough grading and fine grading, compaction, installation and / or adjustments of stormwater drainage conveyance structures, incidental relocations, structural stabilization, forming, backfilling, sawing exiting concrete and asphalt, furnishing, placing, and finishing concrete, construction joints, ADA accommodations, milling, tacking, furnishing, placing and compaction of asphalt, sedimentation and erosion control, touch-up repairs, security of the work, traffic control and safety operations with associated materials, removal of any debris, cleanup, and disposal(s), special subcontracting, permits and licenses, seeding, mulching, miscellaneous landscaping and relocations, and all else required as necessary, in accordance with the Contract documents, City Technical Standards Manual, Standard Specifications, and Standard Drawings to the satisfaction of the Director and the City of Concord.

You are hereby formally notified to commence work on or before the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (NOTICE TO PROCEED date) under the assigned City of Concord Purchase Order No. \_\_\_\_\_ in accordance with the Contract documents for the work.

Dated this \_\_\_\_ the day of \_\_\_\_\_, 20\_\_

City of Concord, North Carolina

By: \_\_\_\_\_  
Title: City Manager

**STANDARD FORM CONSTRUCTION CONTRACT**  
**Old Charlotte Rd. Sidewalk Extension Phase I**

This contract is made and entered into as of the NOTICE TO PROCEED date, by the City of CONCORD ("City") and \_\_\_\_\_ ("Contractor"), ( ) a corporation, ( ) a professional corporation, ( ) a professional association, ( ) a limited partnership, ( ) a sole proprietorship, or ( ) a general partnership; organized and existing under the laws of the State of North Carolina.

**Sec. 1. Background and Purpose.** This contract is for a sidewalk extension and other associated work on a certain section of Old Charlotte Rd. (a City maintained street) in the City of Concord. All work and materials shall meet and be in accordance with the provisions of the City Technical Standards Manual, the North Carolina Department of Transportation Standard Specifications for Roads and Structures, Latest Edition, the North Carolina Department of Transportation Roadways Standards Drawings, Latest Edition and the Manual on Uniform Traffic Control Devices, Latest Edition. The Contractor shall keep himself fully informed of all Federal, State, and local laws, ordinances, and regulations.

**Sec. 2. Services and Scope to be Performed.** The Contractor shall provide construction and installation work as indicated on the construction plans and discussed in the pre-quote walk through including, but is not limited to, all mobilizations, demobilizations, control, layout, materials, tools, labor, rentals, consumables, miscellaneous hardware, supporting hardware and software, clearing, grubbing, excavations, hauling operations, filling, rough grading and fine grading, compaction, installation and / or adjustments of stormwater drainage conveyance structures, incidental relocations, structural stabilization, forming, backfilling, sawing exiting concrete and asphalt, furnishing, placing, and finishing concrete, construction joints, ADA accommodations, milling, tacking, furnishing, placing and compaction of asphalt, sedimentation and erosion control, touch-up repairs, security of the work, traffic control and safety operations with associated materials, removal of any debris, cleanup, and disposal(s), special subcontracting, permits and licenses, seeding, mulching, miscellaneous landscaping and relocations, and all else required as necessary in accordance with the Contract documents, City Technical Standards Manual, Standard Specifications, Standard Drawings to the satisfaction of the Director and the City of Concord at the charges set forth either in this paragraph and Exhibits listed in Sec. 10. Attachments.

Additional Exhibits may be used to further define this Agreement when the Contractor and City so agree. Any additional exhibits shall be designated as exhibits to the Agreement with capitalized, sequential letters of the alphabet, shall be attached hereto and incorporated herein by reference as if the same were fully recited, and shall become terms of this Agreement upon execution by both parties.

In this contract, "services" means the services that the Contractor is required to perform pursuant to this contract and all of the Contractor's duties to the City that arise out of this contract. Any amendments, corrections, or change orders by either party must be made in writing signed in the same manner as the original. (This form may be used for amendments and change orders.) The City reserves the right to refuse payment for any work outside that authorized herein or pursuant to a duly approved amendment or change order.

**Sec. 3. Complete Work without Extra Cost.** Unless otherwise provided, the Contractor shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

**Sec. 4. Compensation.** The City shall pay the Contractor for the Work as described in this paragraph below OR as described in Exhibit A attached. In the event of a conflict, the provisions of this paragraph shall control. Any additional expenses or charges shall only be paid after both the City and the Contractor agree to and execute a written change order. The City shall not be obligated to pay the Contractor any fees, payments, expenses or compensation other than those authorized in this contract or in a duly-approved change order.

**Sec. 4a. Retainage.** The City shall withhold no retainage on Contracts having a "total project cost" of less than \$100,000.00. The City may withhold retainage on contracts having a total project cost between \$100,000 and \$299,999. The City shall withhold retainage on contracts whose total project cost exceeds \$300,000. When withheld, retainage shall equal no more than five percent of each progress payment. When the project is fifty per cent complete, the City shall not retain anything from future project payments provided that (i) the surety concurs in writing, (ii) the Contractor continues to perform satisfactorily, (iii) any non-conforming work identified in writing by the architect, engineer(s) or City has been corrected by the Contractor and accepted by the architect, engineer(s) or City. However, if the City determines that the Contractor's performance is unsatisfactory, the City may withhold up to five percent retainage from each project payment. The City may withhold additional amounts above five percent for unsatisfactory job progress, defective construction not remedied, disputed work, third party claims filed against the owner or reasonable evidence that a third-party claim will be filed.

**Definitions:**

"Total Project Cost": Total value of the Contract and any approved change orders or amendments.

"Project Fifty Percent Complete": When the Contractor's gross project invoices (excluding the value of the materials stored off-site) equal or exceed fifty percent of the value of the contract, except that the value of materials stored on-site shall not exceed twenty percent of the Contractor's gross project invoices for the purpose of determining whether the project is fifty percent complete.

**Sec. 5. Term.** The Contractor shall commence work on the written Notice to Proceed date from the City. The date of the written Notice to Proceed date shall be the "Commencement Date." All work as set forth in the Scope of Services in Exhibit "A" shall be completed within **NINETY (90)** calendar days of the Commencement Date. The date that is **NINETY (90)** calendar days from the Commencement Date shall be the "Completion Date."

Time is of the essence with regard to this Project. If Contractor's obligations are not completed by the Completion Date, the City reserves the right to nullify this Agreement, order the Contractor to immediately cease all work under this Agreement and vacate the premises, and to seek professional services equivalent to those outlined in Exhibit "A." The Contractor shall be held accountable for all damages incurred by the City as a consequence of the missed Completion Date. The exercise of any of these rights by the City shall not be interpreted to prejudice any other rights the City may have in law or equity. This Contract shall not be automatically extended unless agreed to in writing by the City or as provided in Exhibit "A".

**Sec. 6. Contractor's Billings to City.** Payments will be made in accordance with the schedule found in this section below OR attached at Exhibit A. Contractor shall submit an original pay request (invoice) to the City Purchasing Agent by the first of each month in order to expedite payment. Upon receipt of the request the City Purchasing Agent shall verify the amounts and if correct forward the request to the Accounts Receivable Division of the Finance Dept. Final payment on the contract shall be made in 45 days, except in the case of retainage. Within 60 days after the submission of the final pay request, the City (with the written consent of the surety) shall release to the Contractor all retainage payments IF the City receives a certificate of substantial completion from the architect, engineer or designer-in-charge of the project OR the City receives beneficial occupancy and use of the project. In either case, the City may retain up to 2.5 times the estimated value of the work to be completed or corrected.

**Sec. 7. Insurance.** Contractor shall maintain and cause all sub-contractors to maintain insurance policies at all times with minimum limits as follows:

<u>Coverage</u>	<u>Minimum Limits</u>
Workers' Compensation	\$100,000 each accident, \$500,000 bodily injury by disease, \$500,000 bodily injury by disease policy limit

General Liability	<input type="checkbox"/> \$500,000 per occurrence if contract does not exceed 30 days and does not exceed \$25,000; otherwise, <input checked="" type="checkbox"/> \$1,000,000 per occurrence/\$2,000,000 aggregate
Automobile Liability	<input checked="" type="checkbox"/> \$500,000 per occurrence if contract does not exceed 180 days and does not exceed \$500,000; otherwise, <input type="checkbox"/> \$1,000,000 per occurrence
Umbrella	<input checked="" type="checkbox"/> \$1,000,000 per occurrence if contract does not exceed 180 days and does not exceed \$500,000; otherwise, <input type="checkbox"/> \$2,000,000

Contractor shall provide a Certificate of Insurance to the City listing the City as an additional insured. Such Certificate shall be in a form acceptable to the City.

**Sec. 8. Documentation Requirements:**

A. Contractor shall provide the City with a **Certificate of Insurance** for review prior to the issuance of any contract or Purchase Order. All Certificates of Insurance will require written notice by the insurer or contractor's agent in the event of cancellation, reduction or other modifications of coverage by the insurer. Such notice shall be not less than 30 days for nonrenewal by the insurer, not less than 10 days for cancellation due to nonpayment of the premium and as soon as possible for all other types of modifications. In addition to the notice requirement above, Contractor shall provide the City with written notice of cancellation, reduction, or other modification of coverage of insurance whether instigated by the insurer or by the Contractor immediately upon Contractor's receipt of knowledge of such modifications. Upon failure of the Contractor to provide such notice, Contractor assumes sole responsibility for all losses incurred by the City for which insurance would have provided coverage. The insurance certificate shall be for the insured period in which the initial contract period begins and shall be renewed by the contractor for each subsequent renewal period of the insurance for so long as the contract remains in effect.

The City shall be named as an **additional insured** on all policies except Workers' Compensation and it is required that coverage be placed with "A" rated insurance companies acceptable to the City. Statement should read, "City of Concord is added as an additional insured as evidenced by an endorsement attached to this certificate." Failure to maintain the required insurance in force may be cause for termination of this Agreement. In the event that the contractor fails to maintain and keep in force the insurance herein required, the City has the right to cancel and terminate the Agreement without notice.

B. All those doing business with the City must have a current **Privilege License** issued by the City of Concord if a privilege license is authorized by law.

C. Contractor shall provide a completed W-9 form to the City prior to execution by the City of this Agreement.

**Sec. 9. Performance of Work by Contractor.**

(a) The Contractor warrants that all work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of 1 year from the date of issuance by the City of written final completion of the work.

(b) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to City - owned or controlled real or personal property, when that damage is the result of--

- (1) The Contractor's failure to conform to contract requirements; or
- (2) Any defect of equipment, material, workmanship, or design furnished.

(c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(d) The City shall notify the Contractor, in writing, within a reasonable time, not to exceed 30 days, after the discovery of any failure, defect, or damage.

(e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time, not to exceed 30 days unless otherwise agreed in writing and signed by the City Manager or his designee, after receipt of notice, the City shall have the right to replace repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

- (1) Obtain all warranties that would be given in normal commercial practice,
- (2) Require all warranties to be executed, in writing, for the benefit of the City, if directed to do so by the City; and
- (3) Enforce all warranties for the benefit of the City, if directed to do so by the City

(g) In the event the Contractor's warranty has expired, the City may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the City nor for the repair of any damage that results from any defect in City-furnished material or design.

**Sec. 10. Performance of Work by City.** If the Contractor fails to perform the Work in accordance with the schedule referred to in Exhibit "A", the City may, in its discretion, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Contractor reasonable notice of its intention. The Contractor shall reimburse the City for all costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

**Sec. 11. Attachments.** The following attachments are made a part of this contract and incorporated herein by reference: SOLICITATIONS OF QUOTES, EXHIBIT "A" GENERAL CONDITIONS AND QUOTE FORM, ANY ADDENDUM(S) TO EXHIBIT A, EXHIBIT "B" SPECIAL CONDITIONS, INCLUDING ANY PLANS, SPREADSHEET(S) AND / OR MAP(S), DAVIS BACON FACT SHEETS, FEDERAL LABOR STANDARDS PROVISIONS, WAGE RATES HIGHWAY CONSTRUCTION PROJECTS SHEET, MINORITY BUSINESS FORMS, EXHIBIT "C" ATTACHMENT SHEET FOR AND QUOTE BOND (IF REQUIRED), EXHIBIT "D" NOTICE OF AWARD AND ACCEPTANCE OF NOTICE, EXHIBIT "E" ATTACHMENT SHEET FOR AND CERTIFICATE OF INSURANCE, EXHIBIT "F" ATTACHMENT SHEET FOR AND PERFORMANCE and PAYMENT BONDS, EXHIBIT "G" ATTACHMENT SHEET AND FINANCE PROVIDED FORMS, EXHIBIT "H" NOTICE TO PROCEED, ANY WRITTEN CHANGE ORDERS, DIRECTIVES TO THE CONTRACTOR BY THE DIRECTOR AND INSPECTION REPORTS, AND ANY WRITTEN PROPOSALS SUBMITTED BY THE CONTRACTOR TO THE DIRECTOR AND ACCEPTED AS PART OF THE CONTRACT BY THE DIRECTOR., AND OTHER FORMS AS REQUIRED BY THIS CONTRACT.

In case of conflict between an attachment and the text of this contract excluding the attachment, the text of this contract shall control. Any attachment that materially alters the standard terms contained herein must be reviewed by the City Attorney and approved by the City in writing.

**Sec. 12. Notice.**

(a) All notices and other communications required or permitted by this contract shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City:

J.K. Wilson, III, PE,  
Transportation Director  
City of Concord  
P.O. Box 308  
Concord, NC 28026  
Fax Number: (704) 795-0404

To the Contractor:

Albert Benshoff, Esq.  
City Attorney  
PO Box 308  
Concord, NC 28026  
Fax Number: (704) 784-1791

(b) **Change of Address, Date Notice Deemed Given:** A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this contract shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by US Mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the US Postal Service or upon actual delivery, whichever first occurs.

**Sec. 13. Indemnification.** To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless the City of Concord, its agents, officers, and employees, from and against all charges that arise in any manner from, in connection with, or out of this contract as a result of the acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable except for damage or injury caused solely by the negligence of the City its agents, officers, or employees. In performing its duties under this section, the Contractor shall at its sole expense defend the City of Concord, its agents, officers, and employees with legal counsel reasonably acceptable to City. As used in this subsection – “Charges” means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, expenses, interest, reasonable attorney’s fees, and amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this contract. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contract under this contract.

**Sec. 14. Corporate Status.** If the Contractor is dissolved or suspended and the Contractor does not notify the City of such dissolution within three (3) business days from date of dissolution or suspension, and/or the corporate status is not reinstated within thirty (30) days, this contract, at the sole option of the City, shall be declared null and void or the Contractor shall execute a new contract showing the Contractor’s correct legal entity.

**Sec. 15. Miscellaneous.**

(a) **Choice of Law and Forum.** This contract shall be deemed made in Cabarrus County, North Carolina. This contract shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be the appropriate division of the North Carolina General Court of Justice, in Cabarrus County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

(b) Waiver. No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out this contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(c) Performance of Government Functions. Nothing contained in this contract shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

(d) Severability. If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

(e) Assignment, Successors and Assigns. Without the City's written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out this contract. Unless the City otherwise agrees in writing, the Contractor and all assigns shall be subject to all of the City's defenses and shall be liable for all of the Contractor's duties that arise out of this contract and all of the City's claims that arise out of this contract. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

(f) Compliance with Law. In performing all of the Work, the Contractor shall comply with all applicable law.

(g) City Policy. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.

(h) EEO Provisions. During the performance of this Contract the Contractor agrees as follows: (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall post in conspicuous places available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Contractor in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.

(i) No Third Party Right Created. This contract is intended for the benefit of the City and the Contractor and not any other person.

(j) Principles of Interpretation. In this contract, unless the context requires otherwise the singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The word "person" includes natural persons, firms, companies associations, partnerships, trusts, corporations, governmental agencies and units, and any other legal entities.

(k) Modifications, Entire Agreement. A modification of this contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or other duly authorized official signs it for the City. This contract contains the entire agreement between the parties pertaining to the subject matter of this contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract.

**(The following section applies to construction contracts only if amount is over \$50,000)**

**Sec. 16. Bonding**. Both performance and payment bonds for the full amount of this Contract are required to be attached. Instead of bonds, you may submit a letter from your banker or stockbroker stating that cash, certified checks or government securities in the amount of this Contract will be submitted. The performance bond shall have a value equal to 100% of this Contract. This bond shall be conditioned upon faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond shall

be solely for the protection of the City. The payment bond shall be in an amount equal to 100% of the Contract, and conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performance labor for which a contractor or subcontractor is liable.

**Sec. 17. Dispute Resolution.** It is understood and agreed that NCGS 143-128(f1-g) requires that disputes arising under an agreement for the erection, construction, alteration or repair of a building be subject to a dispute resolution process specified by the City. In compliance with this statutory provision, the City specifies this Section as the dispute resolution process to be used on this Project. It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the Parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the City is under no obligation under any circumstance to secure or enforce the participation of any other Party in the mediation of any dispute subject to this Section and NCGS 143-128(f1-g).

**This Section 17 does not apply to:**

- (a) **The purchase and erection of prefabricated or relocatable buildings or portions of such buildings, except that portion of the work that must be performed at the construction site; or**
- (b) **The erection, construction alteration or repair of a building when the cost of such building is \$300,000 or less.**

17.1 Any dispute arising between or among the Parties listed in Section 17.3 that arises from an agreement to construct the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under its Construction Industry Mediation Rules ("Rules"), except as otherwise expressly set forth in this Section. To the extent any provision of the Rules is inconsistent with the provisions of this Section, the provisions of this Section shall control. The mediation provided in this Section shall be used pursuant to this Agreement and NCGS 143-128(F1-g) and is in lieu of any dispute resolution process adopted by the North Carolina State Building Commission, which process shall not apply to this Project.

17.2 For purposes of this Section the following definitions shall apply:

- a. *Agreement to construct the Project* means an agreement to construct the Project that is subject to the requirements of NCGS 143-128 and does not include any agreement related to the Project that is not subject to said statute.
- b. *Construct or construction* refers to and includes the erection, construction, alteration or repair of the Project.
- c. *Party or Parties* refers to the parties listed in Section 16.4.
- d. *Project* means the building to be erected, constructed, altered or repaired pursuant to this Agreement.

17.3 The City and any Party contracting with the City or with any first-tier or lower-tier subcontractor for the construction of the Project agree to participate in good faith in any mediation of a dispute subject to this Section and NCGS 143-128(f1-g), including without limitation the following Parties (if any): architect(s), engineer(s), surveyor(s), construction manager, construction manager at risk, prime contractor(s), surety(ies), subcontractor(s), and supplier(s).

17.4 In order to facilitate compliance with NCGS 143-128(f1-g), the Contractor and all other Parties shall include this Section in every agreement to which it (any of them) is a Party for the construction of the

Project without variation or exception. Failure to do so will constitute a breach of this Agreement, and the Contractor or other Party failing to include this Section in any agreement required by this Section shall indemnify and hold harmless the remaining Parties from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach. Notwithstanding the foregoing provisions of this Section, it is expressly understood and agreed that the Parties are intended to be and shall be third-party beneficiaries of the provisions of this Section and can enforce the provisions hereof.

17.5 The following disputes are not subject to mediation: (i) a dispute seeking a non-monetary recovery; and (ii) a dispute seeking a monetary recovery of \$15,000 or less.

17.6 A dispute seeking the extension of any time limit set forth in an agreement to construct the Project shall be subject to mediation pursuant to this Section and NCGS 143-128(f1-g), but only if the damages which would be suffered by the Party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such Party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

17.7 For purposes of this Section, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single Party or two or more Parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all Parties to such disputes.

17.8 In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.

17.9 Prior to requesting mediation, a Party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining Parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining Party, unless supported by such investigation and good faith belief by the Party requesting the mediation.

17.10 If a Party breaches any provision of Section 17.9, it shall indemnify and hold harmless all other Parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other Parties that arise from such breach.

17.11 All expenses incurred by a Party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the Party. Such expenses include without limitation preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation, including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the Party requesting the mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the City is named as a party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties. If more than one Party to a dispute requests a mediation, the mediation expenses and costs to be divided among the Parties shall be borne equally by the Parties to the dispute; provided that, if the City is named as a Party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties.

17.12 The mediation shall be held at a location agreeable to the mediator and all of the Parties; provided that, if no agreement can be reached, the mediation will be held at such location in Cabarrus County as the mediator shall determine.

17.13 The provisions of this Section are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full

force and shall be satisfied as a condition precedent to mediation pursuant to this Section.

17.14 The Parties understand and agree that mediation in accordance with this Section shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Section.

IN WITNESS WHEREOF, the City of Concord and the Contractor have caused this contract to be executed under seal by their respective duly authorized agents or officers.

**CITY OF CONCORD:**

\_\_\_\_\_  
(Typed or Printed Legal Name of Contractor)

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Signature of President/Vice President/Manager/Partner

ATTEST BY:  
  
\_\_\_\_\_  
City Clerk

Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SEAL

ATTEST:

BY: \_\_\_\_\_  
Signature of Vice President, Secretary, or other officer

Printed Name: \_\_\_\_\_

Title \_\_\_\_\_

SEAL

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for the City of Concord

**APPROVAL BY CITY FINANCE OFFICER**

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Signature