

Canton, Ohio

**CANTON CITY
ENGINEERING DEPARTMENT**

**Construction
Contract and Specifications**

FOR

PID 85299

12th St. N Corridor Project

GP 1098

THE DBE GOAL FOR THIS PROJECT IS 9%

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LEGAL NOTICE

Ordinance 39-2014

The Director of Public Service of the City of Canton, Ohio will accept sealed bids until 2:00PM, Local Time on **FRIDAY, June 27, 2014**, for the purpose of securing bids for,

PID 85299, 12th St. N Corridor Project, GP 1098

Submit bid according to the specifications and bid sheet(s) on file and available on-line at <http://cantonohio.gov/engineering/?pg=480>. The City will open bids in the Sixth Floor Conference Room of Canton City Hall.

Submit all bids to the City of Canton Contract Office, 218 Cleveland Avenue SW, Purchasing Department/ Sixth Floor, Canton, Ohio 44702 before 2:00 p.m. on the day of the bid opening. **THE CITY WILL DISQUALIFY ANY BID NOT RECEIVED IN THE CONTRACT OFFICE BEFORE 2:00 PM ON FRIDAY, June 27, 2014.**

Each bidder must submit evidence of its experience on projects of similar size and complexity. The bidder must use the proposal blanks provided in the bid package for submitting bids. The City will not accept any other submittals.

Each bid must contain the name of every person or company interested in the same. A certified check, cashier's check, or surety bond, in accordance with Section 153.54 of the Ohio Revised Code, must accompany the bid. The bond or check must be drawn on a solvent bank or bonding company licensed in the State of Ohio to provide said surety and satisfactory to the Director of Public Service as a guarantee that if the bid is accepted, a contract will be entered into and its performance properly secured.

Said certified check or cashier's check shall be for ten percent (10%) of the total amount bid. Where a bid bond is used, it shall be in an amount of one hundred percent (100%) of the total amount of the bid. The City of Canton will only accept original checks and bid bonds. Therefore, if any company and/or bidder(s) submit a copy (including faxed copies) of his/her security, the City will disqualify the bid. The Director of Public Service reserves the right to waive any technical defects in any bid bond submitted so long as the bond is in substantial compliance with State Law.

INCLUDE THE CITY OF CANTON, THE OHIO DEPARTMENT OF TRANSPORTATION, AKRON METRO REGIONAL TRANSIT AUTHORITY, AND WHEELING & LAKE ERIE RAILWAY AND THEIR AGENTS, AS ADDITIONAL INSURED FOR PURPOSES OF COVERAGE UNDER THE SUBJECT POLICY AND AS OBLIGEEES ON ALL BONDS.

The Party awarded contract should be prepared to furnish surety bond for faithful performance. All bids must be firm bids. The City will not consider bids containing an escalator clause.

Bidders must obtain specifications, and proposal blanks to be eligible as a responsive bidder. Potential bidders may obtain specifications and proposal blanks at the website, <http://cantonohio.gov/engineering/?pg=507>. It is the bidders' responsibility to secure the

correct documents needed to bid.

All contractors and subcontractors involved with the project will, to the extent practicable use Ohio products, materials, services, and labor in the implementation of their project.

Only ODOT pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in force **at the time of bid, at the time of award, and through the life of the construction contract.** For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. The “prime” contractor must perform no less than 30 percent of the total original contract price.

Bidders must comply with prevailing wage rates on Heavy and Highway construction projects for the Federal wage rates according to the Davis-Bacon Act as included in the contract documents. A PLA will **not** be required for this project. The estimated construction cost is **\$16,246,135.71** for this project. The project duration shall be 24 calendar months from the Notice to Proceed.

This project has a Disadvantaged Business Enterprise (DBE) goal of **9%**. The contractor must provide a plan on how it will satisfy the DBE goal and proof of commitments from DBE subcontractors and suppliers before Canton will enter into an agreement with the contractor.

There will be no value engineering change proposals accepted on this project.

All steel and iron products must meet the requirements of ODOT CMS 106.09.

It is the City’s policy that for IRS purposes, all companies must submit their Federal I.D. number.

The Director of Public Service reserves the right to waive any technical defects in any bid bond submitted so long as the bond is in substantial compliance with State Law. Any bidder may withdraw his bid, by written request, at any time prior to the hour set for the bid opening.

Should any bid be rejected, the check or bond will be returned to the bidder or bidders within ten (10) days after the contract is awarded, and should any bid be accepted, such check or bond will be returned upon execution and securing of contract. Bidders shall be prepared to furnish any information requested regarding return of bond or check.

The Board of Control reserves the right to reject any or all bids and to accept the bid(s) deemed most beneficial to the City of Canton.

Authorization is by order of William Bartos, Canton City Service Director.

Published in the Canton Repository: **June 5, June 12 and June 19, 2014**

NOTICE TO CONTRACTOR

The city has set liquidated damages at \$2600 per day the project completion date. See Plan General Notes for details. Project Completion Date is 24 calendar months after the Notice to Proceed. Furthermore, there are restrictions of work at certain designated times during the contract. Review Sections (27), (28) and (60) for details before signing this sheet.

The Director of Public Service reserves the right to waive/accept any technical defects in the submission of documentation for this bid.

*Only ODOT pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in force **at the time of bid, at the time of award, and through the life of the construction contract.** For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. The “prime” contractor must perform no less than 30 percent of the total original contract price.*

*Partial payments to the Contractor shall be made at the rate of ninety-two (92) percent of the estimate submitted by the Contractor and approved by the Engineer until the project is fifty (50) percent completed. The reimbursement rate will be one hundred (100) percent of such estimates after the project is fifty (50) percent completed. **The City will not make payment for stored materials.***

Include the City of Canton, the Ohio Department of Transportation, Akron Metro Regional Transit Authority, and Wheeling & Lake Erie Railway, and their agents, as additional insured for purposes of coverage under the subject policy.

PLEASE ACKNOWLEDGE THAT YOU HAVE READ THE ABOVE REQUIREMENTS BY SIGNING BELOW.

DATE

SIGNATURE

INSTRUCTIONS TO BIDDERS

(1) The bidder must review the complete bid package as advertised. You must submit the Appendix B bid forms for the bid. **THE BID FORMS, THE SUPPORT DOCUMENTS ANY ADDENDUM AND THE ENTIRE BID PACKAGE ARE REQUIRED.** Use blue ink for all signatures.

(2) Bidders must examine, before submitting their bids, the specifications and form of contract. There may be changes in the specifications from those previously used; the City presumes that a bidder has read and fully understands each clause embodied in this contract. Any information derived from the Engineer's office will not relieve the Contractor from any risks or from fulfilling all of the terms of this contract.

The bidder is responsible to revisit <http://cantonohio.gov/engineering/?pg=507>, the City's website, until date and time of the bid opening for any updates or changes. Please contact Steve Henderson via email at steve.henderson@cantonohio.gov if you intend to bid the project. The City will send any updates to prospective bidders via email. However, prospective bidders are responsible for checking the website for updates.

All written addenda issued by the Engineer will become part of the Contract Documents. The addenda are binding for all bidders whether the bidder has received or not received it (the City will post the addenda on the website). The City will not consider any oral or telephonic modifications of the Contract Documents.

(3) The owner reserves the right to reject bids or waive any informality or irregularity in any bid received. Failure to complete/submit all documentation may result in the bidder being determined as non-responsive. The Service Director shall make the final decision in this matter.

(4) The City does not pay for delivered materials. The bidder must establish his bid prices based upon installed items. This statement is made in "Notice to Contractor" and Section (64).

(5) The City will permit the bidder to include additional or supplemental attachments. The bid must be sealed, and addressed to the Service Director of the City of Canton, Contract Office – 6th Floor, 218 Cleveland Avenue S.W., P.O. Box 24218, Canton, Ohio 44701-4218, Attn: Randall Dublikar and write on the envelope, "Proposal for the PID 85299, 12th St. N Corridor Project, GP 1098", and must be deposited with all papers bound.

(6) Any bidder may withdraw the bid(s), by written request, at any time prior to the hour set for the bid opening. If there is no withdrawal of the bid(s), in accordance with the above procedure, the City reserves the right to enforce said bid price(s) and/or contract. Please note that by submitting your bid(s) to the City of Canton, the City presumes that bid(s) have been reviewed by an authorized representative of your company to assure that the bid(s) is/are correct and/or accurate.

(7) This project has a Disadvantaged Business Enterprise (DBE) goal of 9%. The contractor must provide a plan on how it will satisfy the DBE goal and proof of commitments from DBE subcontractors and suppliers before Canton will enter into an agreement with the contractor.

(8) Deleted

(9) Bidders are required to state in their proposals their names and places of residence, and the names and places of residence of all persons interested with them, and if no other person be so interested they shall distinctly state the fact.

(10) Deleted

(11) In case of partnership, write the firm name and the name of each individual partner; in the case of corporations, one of its officers duly authorized to do so must sign the corporation name.

(12) Each bid must be accompanied by a surety bond satisfactory to the Service Director, or a certified check in the amount stated in the advertisement, Made payable to the Service Director, City of Canton, Ohio as a guarantee that if the bid is accepted, a contract will be entered into and its performance properly secured.

(13) The successful bidder, to whom the City may award the contract, shall be required to execute the contract, and furnish a surety bond satisfactory to the Service Director, within ten (10) days from the date of service of notice to that effect. In case of failure to do so, he will be considered as having abandoned it, and the deposit accompanying the proposal shall thereupon be forfeited to the City of Canton, and the work may be re-advertised or awarded to the next higher bidder, as the Service Director may determine. Such bond shall be of an approved guaranty company, satisfactory to the Service Director in the sum of the total price bid for the completed work.

(14) The Service Director or his representative shall publicly open and read all proposals at the meeting immediately after the time stated in the advertisement.

(15) The City will compare all proposals based on the Engineer's estimate of the quantity of work and the materials to be furnished. They are approximate only, and the City expressly reserves the right to increase or decrease them or to omit them, during the construction of the improvement, that the Service Director may deem advisable.

(16) The bidder must submit, at the time specified, the various samples, statements, affidavits, plans, etc. required hereunder.

(17) Review the Legal Notice.

(18) Instructions must be adhered to; failure strictly to observe them shall constitute a sufficient cause for rejection of the bid.

(19) The City of Canton Board of Control will evaluate the bids for both the base bid and the alternate bid. The City will award the contract on the basis of the lowest and best bid which will be the base bid with selected alternate item(s). The Board of Control reserves the right to reject any and all bids and to award the bid deemed in the best interests of the City. Total bid price in the cost proposal shall be based upon the base bid items only. Each alternate bid item will be considered and integrated into the base bid by the City as appropriate during the evaluation of bids.

One or more bidders may be required to submit information to the Owner or its representative to assist in the evaluation of the bid. A bidder may also be required to participate in an interview during which, among other things, the bidder would be requested to make a presentation regarding its organization, resources and its preliminary plan to

perform the construction (schedule, means and methods, etc.).

(20) Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in force at the time of bid, at the time of award, and through the life of the construction contract. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. The “prime” contractor must perform no less than 30 percent of the total original contract price.

GENERAL SPECIFICATIONS

(The headings of the various sections are intended for convenience in reference and not to be considered a part of the specifications.)

(21) **Definitions:** The term "City" wherever used in these specifications shall mean the City of Canton, acting through its Service Director, or his properly authorized agents, such agents acting severally within the scope of the particular duties entrusted to them.

The term "Director" wherever used shall mean the Service Director of the City of Canton, duly appointed and holding office at the same time the contract was executed or during the fulfillment thereof.

The term "Engineer" whenever used, shall mean the City Engineer of said City or his properly authorized agents to the extent of the powers invested in them.

The term "Contractor" wherever used, shall mean the party of the second part entering into contract with the City for the performance of the work herein specified, or his properly authorized agents.

In all cases when the term "days" as used in these specifications shall be held to mean calendar days, unless otherwise noted.

The term "Work" wherever used, shall mean the furnishing of all labor, tools, machinery and the furnishing of all materials, except as herein otherwise specified, necessary to performing and completing of all the work herein specified. The methods and appliances used therefor must be such as will produce a satisfactory quality of work and ensure safety to the workmen, the public and to property.

Wherever, in the specifications, or upon the drawings and plans, the words directed, required, permitted, ordered, designated, prescribed, or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the City is understood, and similarly, the words approved, acceptable, satisfactory to, refer to the City unless otherwise expressly so stated.

(22) **Decisions:** All the work under this contract shall be done to the satisfaction of the City, which in all cases shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for hereunder, and shall decide all questions which may arise as to the fulfillment of this contract on the part of the Contractor, and the City's determination and decision thereon shall be final and conclusive; and the City's determination and decision in case of any question that may arise, shall be a condition precedent to the right of the Contractor to receive any money hereunder.

(23) **Orders to the Contractor and Failure to Execute:** The address given in the bid or proposal upon which this contract is founded is hereby designated as the place where all notices, letters and other communications to the Contractor shall be mailed or delivered. Such address may be changed at any time by a written notice from the Contractor and delivered to the City.

The Contractor must have on the work at all times, a foreman, superintendent or other competent representative, to whom orders and instructions may be given. Such orders and instructions shall have the same force and effect as if given directly to the Contractor.

Whenever instructions or orders which in the opinion of the Engineer require prompt or immediate attention, are neglected or ignored by the Contractor or his Superintendent, the Engineer shall have the power to place necessary men, machinery and materials on the work and charge the entire cost, including overhead expenses, to the Contractor, who shall either pay the entire cost and expenses into the City Treasury, or the amount thereof shall be deducted from money due the Contractor under the contract.

(24) **Subletting or assigning contract:** The Contractor shall give his personal attention to the faithful prosecution of the work, shall retain the same under his personal control and shall not assign by power of attorney or otherwise, nor sublet the work or any part thereof, without the previous written consent of the City, and shall not, either legally or equitably assign any of the money payable under this agreement, or his claim hereto except by and with the consent of the City.

Assigning or subletting of the whole or any portion of this contract shall not operate to release the Contractor or his bondsmen or surety hereunder from the contract obligations.

(25) **Subsidiary Contracts:** The Engineer may, when in his opinion, it becomes necessary, make alterations or modifications of the plans and specifications, or order additional materials and work, subject to the approval of the Director; and the Contractor shall be obliged to accept such alterations, modifications and additional work and materials not included in this contract. The price to be paid for the work under such altered or modified contract shall be agreed upon in writing, in a subsidiary contract for such portion of, or additional improvement and signed by the Director and Contractor, before such work is done; such additional work, alteration or modification shall be considered and treated as though originally contracted for and shall be subject to all the terms, conditions and provisions of the original contract, except that a material increase in the amount of work will be considered as a proper claim by the Contractor for an extension of the contract time for completion, by an amount to be determined by the City.

And it is expressly agreed and understood that such alterations, additions or modifications or omissions shall not, in any way, violate, or annul the original contract and the Contractor hereby agrees not to claim or bring suit for any damages, whether for loss of profits or otherwise, on account of such alterations, additions, modifications or omissions.

(26) **Inspection:** No material of any kind shall be used in the work until it has been inspected and accepted by the City. The Contractor must furnish all labor necessary in

handling such material for inspection. All materials rejected must be immediately removed from the vicinity of the work. Materials or workmanship found at any time to be defective shall be immediately remedied by the Contractor, regardless of previous inspection.

The Engineer, his assistants, inspectors and agents, together with other parties who may enter into contracts with the City for doing work within the territory covered by this contract, shall, for all purposes which may be required by their contracts, have access to the work and the premises used by the Contractor, and the Contractor shall provide safe and proper facilities therefor.

The Engineer, his assistants and agents shall at all times have immediate access to all places of manufacture where materials are being made for use under this contract, and shall have full facilities for inspecting the same.

No work shall be done except in the presence of the Engineer, his assistants, agents or inspectors. It shall be the duty of such agents or inspectors to see that all materials used and all work done shall be strictly in accordance with these specifications, but such agents and inspectors shall have no authority whatsoever to order any change in materials, manner of doing the work or quantity of work done.

The field inspection of the work, testing of materials, giving lines and grades, preparation of general and detail drawings, except as otherwise specified, will be done by the Engineer. The inspection and supervision by the Engineer is intended to aid the Contractor in supplying all materials and in doing all work in accordance with the drawings and specifications, but such inspection shall not operate to release him from any of his contract obligations.

(27) Time for doing work: The City is instructing the Contractor to base the project schedule upon a 5-day workweek, Monday through Friday from 8:00 am to 4:30 pm except on City recognized holidays; this is the "standard schedule". The Engineer may direct the Contractor to work outside of the standard schedule to save life or property or in case of emergencies. The City is open to alternative hours based upon written approval by the Engineer. The City is giving notice to the Contractor that there is deviation from this note in the plans. The deviation instructs the contractor to work weekends at specific designated intersections. The "standard schedule" does not relieve the contractor of these plan obligations. If the Contractor wishes to work outside of the standard schedule, in addition to times noted in the plans, the Contractor must submit this request in writing to the Engineer. The Engineer will review nonstandard scheduling and approve/deny the request. The Engineer will base his approval/denial upon benefit to the project, benefit to the City, and necessity to facilitate Contractor operations. Contractor must make special provisions for project inspection for nonstandard schedules and will be required to pay for all costs associated with inspection for approved nonstandard schedules. This includes both City personnel as well as consultants representing the City. However, the City does not require the Contractor to pay inspection overtime when the City orders the overtime. The Engineer shall determine method of payment when the need arises. (See also Section 60).

The contractor must suspend operations between Cherry Avenue and the West end of the project from July 25, 2014 to August 4, 2014, from July 24, 2015 to August 3, 2015 and from July 22, 2016 to August 1, 2016 for Hall of Fame events. Contractor is required to have

all material and equipment safely stored. The City will not permit the contractor to store anything in the sidewalk area or the roadway of the parade route. Furthermore, storage of materials and/or equipment must be inaccessible to the public.

(28) **Working Season:** Work done under these specifications, such as grading of streets and placing foundation for paving, curb setting, brick or other roadway paving, sidewalk laying, shall cease from the first day of December until the first day of April of the following year, unless otherwise directed by the Engineer. (See also Section 60).

(29) **Lines and grades:** All work done under this contract shall be done in accordance with the lines, grades and instructions as given by the City and as directed in the plans.

(30) **Order of procedure of work:** The Contractor shall proceed with the work at such points as the Engineer may direct, and not more than two adjoining blocks or squares in length, shall be torn up at the same time, unless otherwise directed by the Engineer; nor shall any block be closed to traffic, except where the Contractor is actually working.

Whenever, in the opinion of the City, it is necessary that certain portions of the work be done immediately, the Contractor upon written order from the Engineer, shall proceed with such work without delay. Should he fail to so proceed, the City may do, or cause to be done, such work, and the cost of the same will be deducted from any money due, or to become due the Contractor under this contract.

(31) **Incompetent workmen:** Any employee of or persons connected with the Contractor who shall use profane or abusive language to the inspector, or other employees of the City, or otherwise interfere with them in the performance of their duties, or who shall disobey or evade the instructions of such employees of the City, or who is careless or incompetent, or who is objectionable to the City authorities, shall be discharged at the request of the Engineer, and shall not again be employed, except with his consent. Skilled labor only shall be used in the cases where the same is required.

(32) **Suspending the work:** The City, on account of public necessity, adverse weather conditions, or for other reasons, may order any portion or all work suspended, and thereupon the Contractor shall neatly pile up all materials, provide and maintain board walks and crossings, and take other means to properly protect the public and the work and to facilitate traffic. In case of such suspension of work, the time allowed for the completion of the work shall be extended in an amount equal to that lost by the Contractor, but the Contractor shall be entitled to no additional claim for damages therefor.

(33) **Forfeiture of contract:** Should the work to be done under this contract be abandoned by the Contractor, or if this contract or any part thereof be assigned or the work sublet by him without the previous written consent of the City or if at any time any official of the City or employee thereof become directly or indirectly interested in this contract or in furnishing the supplies or performing the work hereunder, or in any portion thereof; or if at any time the City may be of the opinion that the performance of the contract is unnecessarily or unreasonably delayed, or that the Contractor is willfully violating any of the provisions of this contract; or if the work be not fully completed within the time named in the contract; then and in any such case the City may notify the Contractor in writing to discontinue all work or any

part hereof as may be designated, and the City may thereupon, according to law, enter upon and take possession of the work or part thereof, complete, or cause the same to be completed, and charge the entire expense of so completing the work or part thereof to the Contractor; and for such completion, the City itself or for its Contractors, may take possession of and use or cause to be used any materials, machinery, or tools of every description provided by the Contractor for the purpose of this work, and may procure or cause to be procured other materials, machinery, or tools required for the completion of the work.

All cost and expenses, including those of re-letting, (and damages resulting from the non-completion of the work within the specified time) incurred under these clauses, or by virtue of this contract, shall be deducted and paid by the City out of any monies then due or to become due the Contractor under and by virtue of this contract or any part thereof. In case such cost and expenses shall exceed the amount which would have been payable under this contract if the same had been completed by the Contractor, the Contractor or his sureties shall pay the amount of such excess to the City; and should such expense be less than the amount payable under this contract had the same been completed by the Contractor, he shall receive the difference, after deducting the amount retained as hereinafter specified, but shall not be entitled to damages for not being allowed to complete the work himself.

In case of abandonment of the work by the contractor, or its termination by the City, the Director of Public Service shall at once cause the work already done under this contract to be measured. Five percent (5%) of the value of the amount thus shown will be set aside as a retainer under the provisions hereof. In such case no money, due or payable to the Contractor under this contract after the annulling of the same, shall be paid until the work is completed, accepted, and all claims and suits by reason of said work have been finally settled. The retained five percent (5%) shall be held for the full guaranty period, as specified herein and used as provided in other provisions hereof, for keeping in repair so much of the work as was done or completed under this contract.

(34) Storing materials delivered on work: All materials required in the work may be placed on the sides of the roadway, or parking area, or upon a portion of the sidewalk along the sides of the roadway to be improved and upon adjoining portions of intersecting streets, as directed by the Engineer; but all such materials shall be neatly and compactly piled in such a manner as to cause the least inconvenience to the property owners and the general public. All fire hydrants must at all times be kept free and unobstructed; water and gas shut off boxes must be left uncovered by such materials; and passageways must be left for store entrances, private driveways and street intersections.

No materials, tools or machinery shall be piled or placed against shade trees unless they be amply protected against injury therefrom, and all shade trees and other improvements must be protected from injury caused by the storing of materials or otherwise during the prosecution of the work.

All materials, tools, machinery, etc. stored upon public thoroughfares must be provided with red lights at night time, and danger signals by day, to warn the traffic of such obstructions.

(35) **Storage of materials, tools and machinery during suspension of work:** Upon the suspension, stoppage, or abandonment of the work, or any part thereof, all materials shall be neatly and compactly piled, and all tools and machinery so located as not to impede public traffic on roadways, sidewalks and crosswalks unnecessarily. All such stored materials, tools and machinery shall be provided with danger signals by day and red lights by night.

(36) **Ownership of old materials:** All old curbing, stone walk, paving brick, brick crosswalks, gutter paving bricks, gutter plates and culverts, sewer pipe, iron pipe and castings, are the property of the City and all such materials as are not ordered replaced, shall be removed by and at the expense of the Contractor, to such places as the Engineer may direct. If the Engineer chooses to not accept such materials, the Contractor must dispose of them at no cost to the City.

(37) **Plans, profiles, and specifications:** The plans, profiles and specifications are intended to be explanatory and supplementary of each other. Should any discrepancy appear or if a misunderstanding arise, as to the import of anything contained in either, the explanation of the City shall be final and binding on the Contractor. Any correction of errors or omissions in the plans, profiles and specifications may be made when such corrections are necessary for the proper fulfillment of their intentions as construed by the City.

Any correction in the plans, drawings, and specifications made pursuant to the provisions of this paragraph shall not be retroactive, but shall take effect at the date of notification to the Contractor of such correction.

The City will furnish the Contractor with up to three (3) sets of additional copies of the plans (full size or half size, if available) as may be required, for the construction of the work herein specified.

(38) **Private rights of way:** Whenever it is required as a part of this contract to perform work within the limits of private property or private right of way, such work shall be done in conformity with the agreements between the City and such owners, and whether or not such a condition be a part of this agreement, care shall be taken to avoid injury to the premises entered, which premises must be left in a neat and orderly condition by the removal of rubbish and surplus materials and restoring vegetation to meet or exceed pre-contract condition.

(39) **Injunctions:** If legal obstructions to the prosecution of the work arise, the delay shall operate to extend the time allowed for the completion of the part or parts of the work obstructed, for the length of time obstruction continues and no longer, but no damages shall be claimed or allowed the Contractor for any such delay.

(40) **Attested accounts:** In case any person who has performed labor or has furnished materials, tools, or machinery for the work herein specified, he may file sworn itemized statement of the amount of value therein, as required by law, and if such claims be not disputed by the Contractor, or if the same are disputed, after the amount and validity have been determined by law, the City may pay the amount of such claims out of any money due the Contractor under this contract.

(41) **Claims for extra materials and work:** All claims for furnishing extra materials, or for doing extra work, for which the Contractor may consider himself entitled to receive extra compensation, must be presented to the Director of Public Service in writing, at the time the cause for such claim arises. Such statement must contain an itemized account of such materials and labor required, and unless such claim is so presented, it is expressly agreed, by the parties to this contract, that the Contractor has waived such claim, and that he shall not be entitled, subsequently to claim, or receive any pay for the same. No claim for extra labor and material shall be allowed, unless the necessity therefor has first been determined by the Director and the price to be paid therefor has been agreed upon, in writing, before such additional materials have been used, and such additional labor performed. See Change Order Policy in the Appendices for more information.

(42) **Claims for damage for omission or delays:** If any change or alteration involves the omission of any materials or work called for in the original plans and specifications, any claim for loss of profits, or any other cause growing out of any such omissions is hereby expressly waived by the Contractor.

No claims for prospective profits will be allowed, by reason of the inability of the City to proceed with all, or any part of the work provided for in this contract; nor for damages by reason of any delay on the part of the City, but any such delay shall entitle the Contractor to a corresponding extension of time for the completion of the work. See Claims Management Policy in the Appendices for more information.

(43) **Damages to property:** All damages to lawns, fences, trees, buildings, sidewalks, water, sewer or gas pipes, or other public or private property along or near the line of work, or the vicinity thereof, if the same are occasioned through neglect or failure on the part of the Contractor, or that of any person in his employ, to take all necessary precautions to prevent the same, must be replaced or made good by him, to the satisfaction of the owners of same and at his cost and expense whenever the Engineer may so direct.

(44) **Liability of contractor for injuries, patents, etc.:** It is expressly understood and is hereby agreed that the whole of the work to be done is at the Contractor's risk. The contractor assumes by bidding under these specifications, the full responsibility and risk of all damages to the work itself, the property along the line of the work, injury to persons or animals which may be occasioned by floods, stoppage of water in sewers or gutters, caving in of surface of grounds or trenches, neglect in properly protecting work by barricades, etc., or any manner whatsoever. He shall bear all losses resulting to him on account of character of the work, or because the nature of the ground in or on which the work is done, is different from what was estimated or expected, or as may have been indicated by borings or test pits, or on account of the weather, actions of the elements or other causes.

He shall assume the defense of any indemnity and save harmless the City and its individual officers and agents from all claims relating to labor and materials furnished for the work to inventions, patents and patent rights used in doing the work, to injuries to any person or corporation received or sustained by or from the Contractor and his agents and employees in doing the work, or in consequence of any improper materials, methods, implements or labor used therein, or by reason of any condition in the improvement created by the Contractor or for any other liability therefor.

The Contractor, if required at any time by the Director, shall furnish the City satisfactory evidence that all persons who have claims for labor performed or material furnished hereunder, or have suffered damages on account of his operations, have been fully paid or secured. And in case evidence be not furnished as aforesaid and such amounts as the Director may consider necessary to meet lawful claims of persons aforesaid, shall be retained from the monies otherwise due the Contractor hereunder, until the liabilities shall have been fully satisfied.

If the Contractor shall claim compensation for any damages sustained by reason of the acts of the City, he shall within five (5) days after the sustaining of such damages, present a written statement to the City of the nature of the damage sustained. On or before the fifteenth day of the month succeeding that in which any such damage shall have been sustained, he shall file with the City an itemized statement of the details and amount of such damage, and unless such statement shall have been filed as thus required, his claim for compensation shall be forfeited and invalidated, and he shall not be entitled to any payment on account of such damage.

The statement of any specific duty or liability of the Contractor in any part of the specifications shall not be construed as a limitation or restriction upon any general liability or duty imposed upon the Contractor by these specifications, said reference to any specific duty or liability being merely for the purpose of explanation.

(45) **Safety measures -- barricades:** The Contractor must provide and maintain barricades to properly protect persons, animals, vehicles and property against injury. He shall also provide, place and maintain sign boards, letter "STREET CLOSED" in plain legible type, upon the streets and alleys in which the work is in progress and upon each street and alley intersection therewith at a distance of one block therefrom, as may be directed by the Engineer.

(46) **Traffic regulations:** The Contractor is responsible for all traffic control on the project whether or not it is called out in the detailed specifications or plans. All traffic control must comply with appropriate City, State, and Federal rules, regulation, and guidelines. During the progress of the work, the Contractor shall accommodate both the vehicular and foot traffic and shall maintain free access to fire hydrants, water and gas valves. Gutters and water ways must be kept open and other provisions made for the removal of storm water.

During the construction of the sewer work and other ditches, only one-half of the street intersections may be blocked at one time and the Contractor shall provide and maintain temporary driveways, bridges, and crosswalks over sewer and other trenches, such as, in the opinion of the Engineer in charge of the work, are necessary to reasonably accommodate the public.

To accommodate pedestrians during the progress of the work, the Contractor shall provide and maintain crosswalks on that portion of the street being improved, both across the main roadway and at the street and alley intersections. The crosswalks shall be constructed of planks two (2) inches thick, and within the fire limits of the City, they shall be at least five (5) feet wide, and outside the fire limits at least three (3) feet wide.

When the City deems it advisable or necessary to divert traffic from the work or any portion thereof, the Contractor shall provide and maintain detour signs, letter "DETOUR" in plain and legible type, and indicating the direction to be taken by traffic as directed by the Engineer.

In the event of the Contractor's failure to comply with the above provisions relative to traffic regulations, the City may cause said provisions to be carried out and the cost and expense of such work shall be deducted from any money due the Contractor under this contract, but the performance of any such work by the City, or at its insistence or request, shall in no way release the Contractor from his general or particular liability for the failure to provide for the safety of the public or the work under this contract.

The Contractor shall not place any material on any sidewalk so as to interfere with the free access to any crosswalk by pedestrians.

No additional compensation will be paid the Contractor by the provision and maintenance of bridges, crosswalks, etc., as above specified, but the cost and expense of maintaining the same shall be considered as part of the general contract and shall be included by the Contractor in the prices bid by him upon the several items as named upon the proposal therefor.

(47) Hauling materials on paved streets: During the progress of the work and in the cleaning up thereof, the Contractor shall provide and use vehicles in which the excavated or other materials are hauled over paved streets in the City, with tight bodies for transportation of fine materials and shall not overload the same so as to allow such materials to fall off the tops thereof upon the streets. The paved streets over which such material is hauled must be kept free from dirt and other materials in accordance with the provisions of City Ordinance regulating same.

(48) Cleaning up during the progress and completion of work: During the progress of the work the Contractor shall remove all surplus excavated materials, obstructions, old materials not used, trees, stumps, filth or rubbish of any kind that may be encountered in the execution of the work, at his own cost and expense except when the removal and transplanting of trees be specified and bids therefor are required upon the blank proposal attached thereto.

As fast as any portion of the work, such as the construction of sewers or drains not located in the street or streets to be improved under the contract is completed, the backfilling of trenches and the repaving over the same shall be done as soon as possible, as herein specified.

As fast as the roadway pavement is completed, the Contractor shall remove all rubbish and surplus materials which have accumulated during the progress of the work provided herein, from

the new or existing sewers, the roadway, sidewalk space and intersecting streets and shall render the streets suitable, safe and convenient for traffic.

Upon the completion of the improvement and before the final acceptance thereof, the Contractor shall remove all machinery, tools, temporary building and shall clean the pavement, curb and sidewalks in such a thorough and effective manner by hand sweeping, scraping or by flushing, according to kind of pavement or condition of the street, as will be determined by the Engineer, so as to leave the entire surface of the pavement, curbs and sidewalks so exposed that the quality and texture of the materials used and workmanship may be readily determined. He shall also remove all centering, scaffolding and accumulations of sand, earth, materials, and rubbish of all kinds from the sewers, manholes, inlets, and catch basins. If the improvement is completed too late in the fall to permit all of the cleaning up as herein specified, that portion not completed shall be done the following spring within ten (10) days after written notice to do so from the Engineer.

All such cleaning and removal of cleanings shall be done by the Contractor and the cost and expense thereof shall be included in his price for furnishing of materials and laying of pavement.

In case the Contractor shall fail or neglect to do any cleaning within forty-eight (48) hours after the receipt of notice to do so, or in the manner specified, the Director of Public Service may and is hereby authorized to cause the same to be done and charge the cost and expense thereof to said Contractor and deduct the amount of such cost and expense from any estimate due him at any time thereafter.

(49) Existing surface fixtures and structures: At least forty-eight (48) hours before breaking ground, the Contractor shall notify all the City Departments and public service corporations, whose tracks, wires, pipes, conduit or other structures may be affected by his operations. He shall likewise notify the Chief of the Fire Department of the temporary blocking of any street.

Existing surface structures which may be encountered in the work shall be removed and replaced or maintained by the Contractor at his cost and expense, or by the parties interested, and in such a manner as to secure the safety of the public and structure. The use of pipes, conduits, etc. shall not be interrupted without the consent of the parties owning or controlling the same.

(50) Existing sub-surface fixtures and structures: Existing sub-surface structures encountered in the work shall be protected and maintained in complete operation, unless permission is given for their removal. Existing substructures, including old sewers, abandoned sewers, abandoned drains, etc., which may appear within the limits of the excavating, shall be removed, if required by the City, but such removal will not be paid for separately, except when expressly specified, being paid for in the price for excavation or other items including excavation.

In case the uncovering of sub-surface structures necessitates a change in the alignment of grade of the proposed work, the Contractor shall give immediate notice of such obstruction to the Engineer, and shall cease work at such points until ordered to proceed.

And in case any change of grade or alignment shall delay the work, the time allowed for the completion of the contract will be extended to the extent which the delay shall have operated, the decision of the Engineer upon this point being final.

(51) **City may construct sewers, drains, etc.:** The City reserves the right to suspend or stop the work on all or any part of the progressing improvement, for the purpose of laying, relaying or allowing to be laid, or re-laid, any sewers, drains, gas pipes, water pipes, conduits or appurtenances thereto, which, in the opinion of the Director of Public Service are necessary or expedient, or for any other reason, and at any stage of the work, and the Contractor shall not interfere with or place any impediment in the way of any person or persons engaged in such work; and in such cases the Contractor shall not be entitled to any damages or recompense, either for digging up the street, or delay or hindrance, but the time of completion shall be extended as many days as the delay shall have operated.

It is the intention of the City to require all property owners to have water and sewer connections made to all lots, and to cause to be laid all water mains, gas mains, sewers and sewer connections, and other pipes, conduits, etc., not included in the contract hereunder, in advance of the improvement, except when in the opinion of the Director of Public Service such procedure be impracticable and the Contractor shall not be entitled to damages or recompense by reason of delay or hindrance, but he shall be granted an extension of time equal to that in which the delay shall have operated, as determined by the Director of Public Service.

If the Contractor hereunder finds that the trenches are not properly backfilled, he shall so notify the Engineer in writing, allowing ample time to have the defects remedied before proceeding with the improvement.

The Contractor may exercise the right to such supervision of the work, as he may deem necessary to insure good material and workmanship, in order that he may properly protect himself from defects in the finished pavement for which he will be responsible under his guaranty. The Contractor will be allowed and paid for any additional materials, the use of which is made necessary on his part by reason of the above specified work, such reasonable sum (not to exceed contract price) as may be agreed upon in writing between himself and the Director before such additional materials be used, and in the manner specified for subsidiary contracts.

(52) **Special repairs:** The City reserves the right, whenever in its judgment, to take up or permit the taking up of any part of the improvement during the progress of the work, or subsequent to the completion thereof and during the period of guaranty for the purpose of constructing, repairing, or renewal of any sewers, drains, water or gas pipes, or other improvements. Whenever any part of the improvement is taken up as herein specified, all the work of restoring the same will be done by or under the direction of the City and the Contractor hereunder will be relieved of any maintenance requirements on that portion of the completed improvement so disturbed.

(53) **Use of city water supply:** The City will furnish water at the hydrants for the purpose of puddling trenches, construction purposes, operation of machinery, mixing concrete, mortar, etc., but the cost of water and the proper facilities for conveying the same from the hydrants must be included by the Contractor in the unit prices bid for the various items of work wherein water will be used. All water used must pass through meters installed by the Water Department at its hydrants and subject to its regulation and paid for at the builder's rate per one thousand (1,000) cubic feet of water consumed, as established by said Department, plus

the cost of meters and installation of same. A deposit will be required covering the cost of meter and installation thereof, which deposit of cost of meter will be refunded on return of meter in good condition.

The Contractor must notify the Water Department at least forty-eight (48) hours in advance of the time such installation is required.

(54) **Use of sewer:** At any time during the progress of the work the City may, by written notice to the Contractor, take over and utilize the whole or part of any sewer, drain or appurtenance thereof which has been completed, giving if desired, permits to tap and connect therewith. In such event, the Contractor shall be relieved from the maintenance of such part as may be used except as provided under the section "Guaranty" and such will be deemed as final acceptance by the City of the part or parts used, subject to the responsibility of the Contractor for all defects in workmanship, etc., as provided under the "Guaranty" section of these specifications.

(55) **Sanitary regulations:** Necessary sanitary conveniences for the use of the laborers on the work, properly secluded from public observation, shall be constructed and maintained in a sanitary condition by the Contractor in such manner and at such points as shall be approved, and their use shall be strictly enforced.

(56) **OSHA standards:** It is the City's requirement, under OSHA Regulations, that all outside contractors hired by the City of Canton are and will be in full compliance with all OSHA standards and perform said work in accordance with all applicable OSHA standards.

(57) **Laws and ordinances:** The Contractor shall keep himself fully informed of all laws, municipal ordinances and regulations that in any manner affect the persons engaged in or employed upon the work, or the materials used in the work, or any way affecting the conduct of the work, and of the decrees of the bodies or tribunals having jurisdiction or authority over the same. He shall also himself observe and comply with and shall cause all of his agents and employees to observe and comply with all such existing and subsequent laws and ordinances, regulations, orders and decrees, and to protect and indemnify the City against claim or liability arising from or based upon the violation of such laws, ordinances, regulations, orders or decrees by himself or by his agents or employees.

References to special laws and ordinances in other sections of this contract shall in no way relieve the Contractor from compliance with all the provisions of this section.

(58) **Monuments and landmarks:** The Contractor shall preserve intact all City monuments, benchmarks and landmarks, as shown upon the plans or encountered in the excavation. In such case that such monument, benchmark or landmark not shown on the drawings be encountered in opening the excavation, the Contractor shall stop work at such point, immediately notify the Engineer of such findings and not disturb same until directed to do so by the Engineer.

(59) **Prices:** The City shall pay and the Contractor shall receive the prices hereafter stipulated as full compensation for everything furnished and done by the Contractor under this contract. This shall include all incidental work required but not specifically mentioned, and

also for all loss or damage arising out of the nature of the work, or from the action of the weather, floods, or from unforeseen obstruction or difficulty encountered in the prosecution of the work, and for the expenses incurred by or in consequence of the suspension or discontinuance of the work as herein specified, and for well and faithfully completing the work and the whole thereof, as herein provided, together with the remedying of all defects developing during the prosecution of the work and during the period for which the work is guaranteed.

(60) Starting and completing the work (Contract Duration): The Contractor shall not start the work embraced in this contract before the date of a written notification from the Engineer, and shall commence at such points as the City may direct.

If the work done under this contract conflicts with other work done for or by the City, or with its consent, the City shall determine the time and manner of procedure of the operations carried on under this contract.

The project shall be substantially complete by November 15, 2016. The final contract completion date, including punch list items, shall be complete by June 1, 2017.

Contractor is responsible for any additional costs due to weather-sensitive construction, such as, but not limited to, protecting concrete from freezing, heating of water as needed, etc. as well as insuring that all materials used satisfy appropriate specifications such as, but not limited to, asphalt temperature specifications, non-frozen backfill material, etc.

The permitting of the Contractor to complete the work or any part thereof, after the time fixed for its completion, shall in no way operate as a waiver on the part of the City of any of its rights under this contract.

Contractors must stage and perform work such that all project related work on a temporary easement is completed with 24 months from the first day of work on the same temporary easement.

(61) Defaulted provisions for delay: The Contractor guarantees that he can and will complete the work on or before the time affixed in his bid, or on or before the extended time as provided for in the contract. The payment to the City for such delay and failure on the part of the Contractor shall be defaulted amount of Two-thousand six-hundred Dollars (\$2,600.00) for each day by which the Contractor shall fail to complete the work, or any part (including Interim) thereof, in accordance with the provisions of the contract. The City will deduct and retain, from any money due or any money to become due under the contract, the amount of the liquidated damages. The Contractor shall be liable for the payment of the difference upon demand of the City.

(62) Samples: Each bidder shall submit samples of materials, or refer to samples of materials furnished by the Manufacturer or Producer, at the time of submitting the bid, as required in detail specifications under each item, for which bids are received. Whenever samples of any material or workmanship have been filed by the Contractor, or are on file as specimen of the work to be done or materials to be furnished for the work herein specified, such samples shall be the standard by which that kind and class of work shall be judged.

(63) **Measurements:** The contract will not use extra or customary measurements of any kind, unless specially noted, in measuring the work under these specifications; the length, area, solid contents or number only, are considered as a basis for payment as hereinafter specified.

The measurements as made by the City of the amount of the work done shall be final and conclusive.

Payments will be made upon the work done within the lines prescribed by the plans, drawings or specifications, and in accordance with the unit prices for the items under which the work is done. Nothing therein contained depriving the City of any remedy or defense it may have under the same, for violation of the terms or conditions of this agreement.

(64) **Partial payments:** The Contractor shall, on a day of each calendar month as is mutually agreeable to the Contractor and the City, make an approximate estimate of the quantities and prices of the labor furnished and the materials incorporated into the project during the previous calendar month and forward such estimate to the Engineer for approval. More frequent estimate submission, at the option of the City, may be made at any time during the progress of the project.

Partial payments to the Contractor for work performed for a lump sum price shall be based on a well-balanced schedule prepared by the Contractor and approved by the Engineer which schedule shall apportion the lump sum price to the principal features entering into or forming a part of the work covered thereby.

Partial payments to the Contractor shall be made at the rate of ninety-two (92) percent of the estimate submitted by the Contractor and approved by the Engineer until the project is fifty (50) percent completed. The reimbursement rate will be one hundred (100) percent of such estimates after the project is fifty (50) percent completed. **The City will make payment for stored materials for poles only.**

The City shall pay the Contractor monthly, not less than the difference between the amount of each monthly estimate which has been approved by the Engineer and the sum of Retainage stipulated below and any other amounts which the City is authorized by the contract to withhold. The making of any monthly payment shall not be taken or construed as approval or acceptance by the City of any work included in the estimate upon which such payment is based.

If the City fails to make payment within sixty (60) days after approval by the Engineer, in addition to other remedies available to the Contractor, there shall be added to each such payment interest at the average of the prime rate established at the commercial banks in the city of over one hundred thousand population nearest the construction project, commencing on the first day after said payment is due and continuing until the payment is received by the Contractor.

To aid in determining quantities of materials for pay, the Contractor shall, whenever requested by the Engineer, provide scales, equipment and assistance for weighing or for

measuring such materials.

For estimating quantities in which computation of areas by geometric methods would be comparatively laborious, the City agrees that a planimeter or other agreed upon method may be used.

(65) (66) **Pre-final and final estimates and payments:** As soon as practicable after the completion of work under the contract, the Engineer will perform a formal inspection of the project. If the project appears to be acceptable, the Engineer will recommend tentative acceptance thereof and make a pre-final estimate of the amount of the work done by the Contractor based on quantities and prices submitted by the Contractor. Upon such certified pre-final estimate, the City will pay the Contractor all of the monies owing him under the contract, except the Retainage, which the City will hold for sixty-day (60) period after the date of the pre-final estimate.

Upon the expiration of such sixty (60)-day period, provided that it appears upon further inspection and certification by the Engineer that the contract has been faithfully performed, the City will pay to the Contractor the whole sum retained or such part thereof as remains after deducting expenses of correcting any deficiencies in the work as determined by the Engineer. Such final inspection and payment will not discharge the liability of the Contractor under the contract or of the surety under the contract bond, but such liabilities and all guarantees shall remain in effect for the period fixed by law.

(67) **Additional contract:** It must be distinctly understood that should more than one contract be awarded to the same Contractor, he may be required to prosecute the work upon all of them at one and the same time. At the option of the Director, and he shall not be permitted to transfer men, tools, or machinery from one job to another without the consent of the Engineer. The contractor shall at all times have a competent foreman and a sufficient number of men, tools, and machinery upon each job, at the same time, as well, in the opinion of the Engineer, be sufficient for the proper prosecution of the work.

(68) **Insurance:** The Contractor shall at all times during the progress of the work, comply with all the provisions of the laws of Ohio relating to workmen's compensation and State insurance fund for the benefit of injured and the dependents of killed employees. The Contractor shall at all times during the progress of the work carry accident liability insurance in an amount sufficient to reasonably indemnify himself against loss from claims for personal injuries or fatal accidents occurring upon the work or caused thereby including injuries and accidents to employees of the Contractor, persons engaged on the work under another contractor, employees of any sub-contractor or other engaged on or about the work and the public. The City reserves the right to annul this contract at any time upon receiving evidence of the Contractor's failure to comply with the statutes as described above.

(69) **Last payment to terminate liability of City:** No person or corporation, other than the signer of this contract as Contractor, has now any interest hereunder, and no claim shall be made or be valid, and neither the City nor its agents shall be liable for, or be held to pay any money, except that provided in this contract. The acceptance by the Contractor of the last payment made as aforesaid shall operate as and shall be a release to the City and agents thereof, from all claims and liability to the Contractor for anything done or furnished for, or

relating to the work, or for any act or neglect of the City or of any person relating to or affecting the work, except the claim against the City for the remainder, if there be any, of the amount kept or retained.

(70) **Guaranty:** The Contractor, for and in consideration of the monies received and to be received by him, hereby agrees that the repairs of all defects in the work done and completed under this contract arising, in the opinion of the Director, out of the use of defective materials, settlements of sewers, structures, and foundations or improper workmanship in the construction thereof, and which repairs from such causes may become necessary during the period of years, as set forth below, after the date of the approval by the Director of the Engineer's certificate of the "FINAL COST", shall be made by him without cost and expense to the City, and the Contractor agrees to make such repairs when, and as ordered by the Director, by written notice served upon him and if after having received such notice, the Contractor fails to make such repairs within the number of days stated in such notice, from the date of receipt thereof, the Director shall thereupon have the power to cause said repairs to be made and charge the cost and expense thereof to the Contractor or his surety.

The failure of the Director to give notice within the specified period shall not preclude the operation of this section.

The guaranty periods referred to above in this section shall be as follows:

C.I.P.P. Rehabilitated Sewers, 2 years (for more information, see page 40, section 3.07, Post Installation)

Concrete curbing, 1 year

Concrete sidewalks, 1 year

Concrete masonry, 1 year

Brick masonry, 1 year

Sewers, manholes, catch basins, 1 year

Asphaltic concrete pavement, 1 year

Concrete foundation, 1 year

(71) **No estoppel:** The City shall not be precluded or estopped by any return or certificate made or given it, from showing at any time, either before or after the final completion and acceptance of the work and payment therefor pursuant to any such return or certificate, the true and correct amount and character of the work done and materials furnished by the Contractor or any other person under this agreement, or from showing at any time that any such return or certificate is untrue and incorrect or improperly made in any particular, or that the work and materials, or any part thereof, do not in fact conform to the specifications; and the City shall not be precluded or estopped, notwithstanding any such return or certificate and

payment in accordance therewith, from demanding and recovering from the Contractor such damages as it may sustain by reason of his failure to comply with the specifications.

Neither the acceptance by the City, nor any order, measurement, or certificate, by the City, nor any order for payment of money, nor any payment for, nor acceptance of the whole or any part of the work by the City, nor any extension of time, nor any possession taken by the City, or its employees, shall operate as a waiver of any portion of this contract or of any power herein reversed to the City, or any rights to damages herein provided; nor shall any waiver of any breach of this contract be held to be a waiver of any other or subsequent breach.

DETAILED SPECIFICATIONS

(72) See plans for detailed specifications.

SUPPLEMENTAL SPECIFICATIONS

(73) **Project Submittals:** The following listed items are the full responsibility of the Contractor. These items become part of the administrative duties imposed upon this Contract. The Contractor shall be responsible for submitting all detail items prior to the contract Notice of Commencement, or as directed by the City's Project Manager. A typewritten letter shall accompany all items, on Company letterhead; clearly describe each item submitted. If Contractor elects to fax any documentation due to expediency, the Contractor will be responsible for submitting hard copy for project documentation. The City will reject any information not clearly legible. **Submit four copies of the project submittals.**

Contractor will clearly affix a label or stamp identifying the submittal and its status for project review. All actions other than "no exception taken" will require supporting notation or information for project review.

Allow at least 10 business days for City's review and execution. The City Project Manager shall assist the Contractor with any questions or clarification during this process to ensure timely response to the Contractor.

The City will not pay directly for the performance of the work listed. This work is a subsidiary obligation of the Contractor.

1. Shop Drawings
2. Preconstruction Video
3. Progress Schedule
4. Release Statement for Disposal of Excavated Material
5. Traffic Control Plan
6. Contractor and Subcontractor Emergency Contact List
7. Statements of Final Compliance

1. Shop Drawings

- a) Upon written request from the Engineer, the Contractor shall submit detailed drawings, acceptable catalog data, specification and material certifications for all materials and/or equipment specialized or required for the proper completion of the work.
 - b) Shop Drawings shall be submitted in not less than four (4) copies to the Engineer.
 - c) Shop Drawings shall be submitted in proper sequence of construction to cause no delay in the work. The Engineer shall be given ten (10) business days to review submittals. The Contractor's failure to transmit appropriate submittals to the Engineer sufficiently in advance of work shall not be grounds for time extension. Also, no work shall be performed requiring shop drawings until same have been approved by the Engineer.
 - d) Each Shop Drawing shall be labeled with the following:
 - 1. Project Name PID 85299, 12th St. N Corridor Project
 - 2. General Project Number (G.P. 1098)
 - 3. Name of Contractor
 - 4. Name of Subcontractor (if applicable)
 - 5. Name and Address of Supplier and/or Manufacturer
 - 6. Log Reference Number
 - e) The Contractor is responsible for reviewing and approving all shop drawings prior to submittal. The Engineer's review shall not be construed as placing on himself any responsibility for the accuracy of said drawings.
2. **Preconstruction Video:** Prior to actual construction, the Contractor shall take video recording of the entire length and width of the work site.
- a) The Contractor shall notify the Engineering Department prior to scheduling the video recording of the site. A representative of the Engineering Department shall be present when the recording this video.
 - b) The video and audio recordings shall be on DVD or pre-approved alternative for replay. Contractor must submit alternative medium to the Engineer and approval received prior to scheduling.
 - c) The video portion shall have continuous time and date incorporated into it, locations and person(s) doing the work.
 - d) Audio comments during the recording must address each item in the field of view as it may pertain to the project construction. The recording technician will need to become familiar with the project plans to know what subject matter is pertinent. Further, contractor must incorporate a post recording review and audio comments into the recording.
 - e) Submitted copies of all recordings are the property of the Engineer. Contractor must submit the recording and be accepted in full by the Engineering Department prior to the start of construction.

3. Progress Schedule:

PN 107 - 06/27/2012 - CRITICAL PATH METHOD PROGRESS SCHEDULE FOR MULTI-SEASON PROJECTS

A. General. The progress schedule required for this project is the critical path method schedule (CPM schedule). The Contractor shall designate a Schedule Representative who shall be responsible for coordinating with the Engineer during the preparation and maintenance of the schedule. The requirements of this note replace the progress schedule requirements in 108.03 of the Construction & Material Specifications. The contractor shall submit an interim schedule followed by a baseline schedule, or only a baseline schedule, depending on when the contractor starts work as described below.

B. Interim Schedule. If the Contractor starts work within 60 days of execution of the contract, they shall submit an interim schedule. The interim schedule can be in bar chart format or CPM schedule format. The interim schedule shall include detailed activities for the work to be accomplished during the first 90 days of the Contract, and summary activities for the balance of the work.

C. Baseline Schedule. The Contractor shall submit a baseline schedule within 60 days of the execution of the Contract. The baseline schedule will be in CPM schedule format and as described below. The Engineer will review the baseline schedule and will either “approve”, “approve as noted” or “reject” the schedule within 21 days of receipt. If the Engineer does not provide written notification regarding the disposition of the baseline schedule within 21 days, the submission will be considered approved.

For baseline schedules that are “approved as noted”, the Contractor shall make the necessary revisions and resubmit the revised schedule within 14 days. The Engineer will only reject baseline schedules that are not in compliance with contract requirements.

For baseline schedules that are “rejected”, the Engineer shall indicate in writing all portions of the schedule that are not in compliance with the contract requirements. The Project Engineer shall conduct a mandatory meeting with the Contractor and the Contractor’s Schedule Representative within 14 days of the Engineer’s written notice. The purpose of this meeting is to resolve all issues with the baseline schedule. At this meeting the Contractor shall provide clarification and all requested information necessary for the Engineer to “approve” the baseline schedule.

In the event the baseline schedule is not “approved” within 120 days of execution of the contract, all

work shall cease on the project until the baseline schedule is “approved”.

Approval of the baseline schedule does not revise the Contract Documents. The baseline schedule must be “approved” or “approved as noted” by the Engineer prior to the Engineer evaluating any contractor claims associated with time impacts.

1. Schedule Requirements. Submit an .xer file prepared in Primavera software manufactured by Oracle. The Department will “Import” or accept progress schedule files from the Contractor. All Calendars assigned to activities must be project level Calendars not Global or Resource Calendars; all Activity Codes shall be project level and not Global or EPS level Activity Codes; no Resources shall be assigned to activities, and no Project Codes shall be assigned.

Table 1 – Schedule Filename Convention			
Progress Schedule	1st Submission	2nd Submission	3rd Submission
Interim Schedule	YYPPPP1IS	YYPPPP2IS	YYPPPP3IS
Baseline Schedule	YYPPPP1B	YYPPPP2B	YYPPPP3B
Schedule Update #1	YYPPPP1SU1	YYPPPP2SU1	YYPPPP3SU1
Schedule Update #2	YYPPPP1SU2	YYPPPP2SU2	YYPPPP3SU2
Delay Analysis	YYPPPP1TIA1	YYPPPP2TIA1	YYPPPP3TIA1
Weather Delay Analysis	YYPPPP1WD1	YYPPPP2WD1	YYPPPP3WD1
Recovery Schedule	YYPPPP1RS1	YYPPPP2RS1	YYPPPP3RS1

YY – Project Year PPPP – Project Number

Provide a working day schedule that shows the various activities of work in sufficient detail to demonstrate a reasonable and workable plan to complete the Project by the Original Contract Completion Date. Show the order and interdependence of activities and the sequence for accomplishing the work. Describe all activities in sufficient detail so that the Engineer can readily identify the work and measure the progress of each activity. The baseline schedule must reflect the scope of work, required phasing, maintenance of traffic requirements, interim completion dates, the Completion Date, and other project milestones established in the Contract Documents. Include activities for submittals, working drawings, shop drawing preparation, submittal review time for the Department shop drawings, material procurement and fabrication, and the delivery of materials, plant, and equipment, and other similar activities.

The Contractor shall be responsible for assuring all work, including all subcontractor work, is included in the schedule. The Contractor shall be responsible for assuring that all work sequences are logical and that the schedule indicates a coordinated plan.

Failure by the Contractor to include any element of work required for performance of the Contract shall not excuse the Contractor from completing all work within the required time. The Engineer's review of the baseline schedule will be for compliance with the specifications and contract requirements. Approval by the Engineer will not relieve the Contractor of any of their responsibilities for the accuracy or feasibility of the schedule. Omissions and errors will be corrected as described in Section F or I in this note and will not affect contract time.

a) Administrative Identifier Information:

- i. Project Number
- ii. County
- iii. Route Number
- iv. FHWA Number
- v. PID Number
- vi. Contract Signed Date
- vii. Completion Date
- viii. Contractor's Name
- ix. Contractor's Dated Signature
- x. ODOT's Dated Approval Signature

b) Project Activities:

- i. Activity Identification (ID). Assign each activity a unique identification number. Activity ID length shall not exceed 10 characters. Once accepted, the Activity ID shall be used for the duration of the project.
- ii. Activity Description. Each activity shall have a narrative description consisting of a verb or work function (e.g.; form, pour, excavate) and an object (e.g.; slab, footing, underdrain).
- iii. Activity Original Duration. Assign a planned duration in working days for

each activity. Do not exceed a duration of 20 working days for any construction activity, unless approved by the Engineer. Do not represent the maintenance of traffic, erosion control, and other similar items as single activities extending to the Completion Date. Break these Contract Items into component activities in order to meet the duration requirements of this paragraph.

iv. Activity Relationships:

- All activities, except the first activity, shall have a predecessor(s). All activities, except the final activity, shall have a successor(s).
- Use only finish-to-start relationships with no leads or lags to link activities, or use start-to-start relationships with lags no greater than the predecessor duration to link activities.
- Use of finish-to-finish relationship is permitted when both activities are already linked with a start-to-start relationship.

c) Project Milestones:

- i. Start Project: The Contractor shall include as the first milestone in the schedule, a milestone named "Start Project". The date used for this milestone is the date the contract is executed and signed by the Department.
- ii. End Project Milestone: The Contractor shall include as the last activity in the project schedule, a milestone named "End Project". The date used for this milestone is considered the project completion date.
- iii. Start Phase Milestone: The Contractor shall include as the first activity for a project phase, an activity named "Start Phase X", where "X" identifies the phase of work. The Contractor may include additional milestones but, as a minimum, must include all contractual milestones.
- iv. End Phase Milestone: The Contractor shall include as the last activity in a project phase, an activity named "End Phase X" where "X" identifies the phase of work. The Contractor may include additional milestones, but at a minimum contractual milestones.

d) Level of Effort Activities:

Use level of effort activities to show the duration of specified contract work periods, phases and road closures. The level of effort activity type is allowed to have a start-to-start relationship with the first activity in a series of activities and a finish-to-finish relationship with the last activity in a series of activities.

e) Constraints:

Use constraints sparingly in the schedule. If constraints are used, use only Early Constraints or Late Constraints.

f) Calendars:

Weather, seasonal (winter) and environmental shutdown periods shall be shown using non-work calendars. The activity can be assigned to a calendar indicating time periods of non-work. These custom calendars can be created to show days, weeks, or months of non-work. Weather and seasonal conditions, as shown in CMS 108.06-1 or PN 130, shall be evenly dispersed into the CPM schedule calendars as non-work days and be included in the planning and scheduling of all work. All calendars developed by the Contractor shall be established as Project Calendars, with the calendar name including the project year, project number and describing the function (i.e. 120345 – 5 day workweek, 120345 – earthwork, 120345 – structures, 120345 – asphalt). No Global Calendars shall be incorporated into any progress schedule submission.

g) Activity Codes:

The Contractor shall, at a minimum, include Project Activity Codes for Area, Phase, and Responsibility for each activity. Work Breakdown Structure is permitted, but not required. No Global Activity Codes shall be incorporated into any progress schedule submission.

h) Schedule Options:

The schedule may only be calculated using retained logic. Show open ends as non-critical. Schedule durations are to be contiguous. Total float shall be calculated as finish float. Ignore relationships to and from other projects.

2. Submission Requirements. Submit all schedules within the time frames specified.

Submit the schedule and information in electronic file format via email or compact disc (CD) compatible with the Engineer's computer. Submit the following information along with the electronic baseline schedule:

- a) A hard copy of the baseline schedule in CPM format including the Administrative Identifier Information discussed in Section C.1.a on the first page of the schedule. For each activity on the chart, indicate the Activity ID, Activity Description, Original Duration, Remaining Duration, Total Float, Start Date, Finish Date, and Calendar ID. Use arrows to show the relationships among activities. . Identify the critical path of the project on the bar chart in red. The critical path is defined as; the longest path of activities in the project that determines the project completion date. The activities that make-up the critical path of activities are the "Critical Activities."
- b) A hard copy of the Six Week Look Ahead Schedule in CPM format. This schedule will have all the requirements of the baseline schedule in bar chart format except that it shall be limited to those activities that have an early start or early finish within a six week period of the data date.
- c) A complete Scheduling/Leveling Report (SCHEDLOG.TXT file generated by the Primavera scheduling software application) which includes Schedule Settings, Statistics, Errors, Warnings, Scheduling/Leveling Results, Exceptions, Activities with unsatisfied constraints, Activities with unsatisfied relationships, and Activities with external dates. The statistics shall include, number of Activities, number of Activities Not Started, number of Activities In Progress, number of Activities Completed, number of Activity Relationships, and number of Activities with Constraints. Total number of activities on the critical path, percent complete, activities without predecessors, activities without successors, and activities out of sequence.

D. Float. Use of float suppression techniques, such as; preferential sequencing (arranging critical path through activities more susceptible to Department caused delay), lag logic restraints, zero total or free float constraints, extending activity times, or imposing constraint dates other than as required by the contract, shall be cause for rejection of the project schedule or its updates.

1. Definitions of Float: Total Float is the length of time along a given network path that the actual start and finish of activity(s) can be delayed without delaying the project completion date. Project Float is the length of time between the End Project Milestone and the Contract Completion Date.
2. Ownership of Float: Float available in the schedule, at any time shall not be considered for the exclusive use of either the Department or the Contractor. During the course of contract execution, any float generated due to the efficiencies of either party is not for the sole use of the party generating the float; rather it is a shared commodity to be reasonably used by either party. Efficiencies gained as a result of favorable weather within a calendar month, where the number of days of normally anticipated weather is less than expected, will also contribute to the Project Float. A schedule showing work completing in less time than the contract time, and accepted by the Department, will be considered to have Project Float. Project Float will be a resource available to both the Department and the Contractor. No time extensions will be granted nor delay damages paid unless a delay occurs which impacts the project's critical path, consumes all available float and extends the work beyond the Contract Completion Date.
3. Negative Float: Negative float will not be a basis for requesting time extensions. Any extension of time will be addressed in accordance with the Section F. Scheduled completion date(s) that extend beyond the contract (or phase) completion date(s) may be used in computations for assessment of liquidated damages. The use of this computation is not to be construed as an order by the Department to accelerate the project.

E. Monthly Update Schedule. A monthly update schedule is a schedule in which only progress is updated from the prior data date to the current data date. Work added and/or excusable delays encountered since the prior data date must be represented as a schedule revision as described in Section F.

1. Update Requirements. On the tenth day of the current month, during the life of the Project, submit an updated schedule and all required information with a data date of the last day of the preceding month. The date for submission and data date may be adjusted to accommodate regularly scheduled progress meetings. Submit the monthly updated bar chart on paper and a copy of the updated schedule in electronic format in Section C.2. The Engineer shall “approve” or “reject” the schedule update within 5 days of receipt of

the updated CPM schedule. The Engineer may withhold estimates if the updated schedule is not submitted as required by this section. For each updated schedule, identify the actual start and finish dates for all completed activities and the actual start date and remaining duration for all activities in progress. Correct out-of-sequence progress listings generated by the Scheduling Statistics Report on the critical path. The project schedule shall be reviewed at each monthly progress meeting. Any corrections shall be made prior to the next monthly progress meeting.

Submit the following with each updated schedule:

- i. A hard copy of the updated schedule in CPM format.
 - ii. A hard copy of the Six Week Look Ahead Schedule in CPM Format
 - iii. Provide a written narrative that identifies any changes or shifts in the critical path and submit reasons for the changes or shifts in the critical path.
 - iv. A complete Scheduling/Leveling Report (SCHEDLOG.TXT) file generated by the Primavera scheduling software application.
 - v. A hard copy or .pdf of the Claim Digger Report (generated by the Primavera Software application) providing a comparison between this updated schedule and the previous Monthly Updated Schedule.
 - vi. Electronic files (formatted as described above)
2. Early Completion Monthly Update Schedule. An Early Completion Monthly Update Schedule is defined as a monthly update schedule submitted by the Contractor in which the Finish Date precedes the Contract Completion Date. If after incorporating necessary revisions in accordance with Section F, the Finish Date precedes the Contract Completion Date by at least the number of days shown Table A the Engineer will initiate a change order amending the Contract Completion Date to the Early Completion Date shown on the accepted Early Completion Monthly Update. The amended Completion Date will be effective upon execution of that change order and all contract provisions concerning the Completion Date such as incentives, disincentives, excusable delays, compensable delays, and liquidated damages will be measured against the amended Completion Date.

The Contractor may elect not to execute the change order amending the Completion Date; however, in so doing, the Contractor waives its rights to delay damages in meeting the projected early Completion Date and the time between the Early Completion Date and the Contract Completion Date is used as Project Float.

Table A

<u>Original Project Duration</u>	<u># days prior to Contract Completion Date</u>
one year or less	30
one year to two years	60
two years or more	90

3. Late Completion Monthly Update Schedule. A Late Completion Monthly Update Schedule is defined as a monthly update schedule submitted by the Contractor in which the Finish Date exceeds the Contract Completion Date. In the event the Finish Date is more than 14 days beyond the current contract completion date and a schedule revision is not warranted, the contractor must proceed in accordance with Section H.

F. Revisions. The Work may require and/or the Contractor may make revisions to the CPM schedule. Addition of new activities or new calendars or changes to existing activities, calendars or logic constitute a revision. All revisions must be reported in narrative form on a cover sheet accompanying the monthly update schedule. Any revision which modifies the critical path or impacts an interim date or project completion date must be represented on a companion schedule submitted with the monthly update schedule or as a fragnet within the monthly update schedule. A fragnet is defined as the sequence of new activities that are proposed to be added to the existing schedule. The fragnet shall identify the predecessors to the new activities and demonstrate the impacts to successor activities. If submitted as a fragnet, the Contractor shall compute two Finish Dates. The first Finish Date shall be computed without consideration of any impact by the fragnet. The second Finish Date shall be computed with consideration of any impact by the fragnet. The Contractor shall also submit a written narrative stating the reason for the proposed revisions. The Engineer shall “approve” or “reject” proposed revisions within ten days of receipt of appropriate schedules and narrative. All approved revisions will be incorporated into the Monthly Update Schedule which will become the Revised Monthly Update Schedule.

G. Time Extensions for Delays in Accordance with C&MS 108.06.B and 108.06.D. The Work may require and/or the Contractor may request an extension of the Completion Date. Perform the

following analysis to compute the duration of the time extension. Submit two paper copies and two electronic copies of each analysis performed.

1. Determine project progress prior to circumstance(s) necessitating the time extension. , The previous accepted monthly update, updated to the date of the circumstance alleging to have caused delay, shall be used to display the prior progress of the project. This schedule is referred to as the Un-impacted Schedule
2. Prepare a fragmentary network (fragnet) depicting the circumstance that is believed to have delayed the project.
3. Insert the fragnet into the Un-impacted Schedule, run the schedule calculations and determine the finish date. This schedule is referred to as the Impacted Schedule.
4. Compare the Impacted Schedule finish date with the Un-impacted Schedule finish date in order to determine the duration of any warranted time extension.

Submit the impacted schedule with the request for time extension. Include a narrative report describing the effects of new activities and relationships to interim and contract completion dates. All approved time extensions will be incorporated into the monthly update with the fragnet used to determine impacts incorporated into the schedule.

H. Weather Days in Accordance with C&MS 108.06.C. The Contractor may request and/or the Engineer will determine an extension of the completion date due to weather days. Perform the following analysis to compute the duration of the time extension. Submit two paper copies and two electronic copies of each analysis performed.

1. The previously accepted monthly update shall be used to display progress of the project and planned activities for the next 30 day period that incurred weather days. Make a copy of the schedule file to use for the analysis. This schedule is referred to as the Non-weather Schedule.
2. Prepare a list of actual weather days believed to have delayed the project and the activities that were impacted.
3. Utilizing the calendar(s) of those impacted activities, remove any planned weather days.

Insert the actual weather day(s) into the calendar(s) for the planned work as a non-work day. Run the schedule calculations and determine the finish date. This schedule is referred to as the Weather Schedule.

4. Compare the Weather Schedule finish date with the Non-weather Schedule finish date in order to determine the duration of any warranted time extension.

Submit the weather schedule with the request for time extension on a monthly basis. Include a narrative report describing the effects of weather days to interim and contract completion dates.

I. Recovery Schedule. If the Monthly Update Schedule or Revised Monthly Update Schedule projects a finish date for the Project more than 14 calendar days later than the current Completion Date, submit a recovery schedule showing a plan to finish by the current Completion Date if requested by the Engineer. The Department will withhold Estimates until the Engineer approves the recovery schedule. The Engineer will use the schedule to evaluate time extensions and associated costs requested by the Contractor. In the event the current Completion Date is in dispute, the recovery schedule will need to be submitted once the dispute has been resolved.

J. Basis of Payment. The Department will make partial payments according to C&MS 109.09 and as modified by the following schedule:

1. The Department will release 60 percent of the lump sum amount bid for CPM Progress Schedule to the Contractor with the first regular estimate payable after the Engineer has approved the CPM Baseline schedule submission.
2. The Department will release an additional 30 percent of the lump sum amount bid for CPM Progress Schedule to the Contractor with the first regular estimate payable after 50 percent of the original contract amount is complete.
3. The Department will release the remaining 10 percent of the lump sum amount bid for CPM Progress Schedule to the Contractor with the first regular estimate payable after 90 percent of the original contract amount is complete.

The Department will pay for the accepted quantities at the contract price as follows:

Item	Unit	Description
108E10000	Lump Sum	CPM Progress Schedule

4. Release Statement for Disposal of Excavated Materials

- (a) The Contractor shall provide to the City a written consent statement from all property owners whose property is a landfill depository for all surplus or unsuitable excavated material from the project site.
- (b) The Contractor shall follow ODOT 105.16 for specific guidelines and name the “City of Canton” in lieu of “the Department” on all forwarded documents. The City requires a contract or permit that contains the language stating that the City is not party to the contract or permit, the material is not the City’s, and that the contractor and the property owner will hold the City harmless from claims that may arise from this contract or permit.

5. Traffic Control Plan: Contractor shall submit a graphical presentation or written document detailing the signage to be used and its location for maintenance of traffic. If traffic control will be performed in stages, submit a plan for each stage. Any proposed detours should be approved by the Engineer prior to plan submission.

6. Contractor and Subcontractor Emergency Contact List: Contractor shall submit to the Engineer, prior to commencing construction, a complete list of the Contractor’s personnel associated with the project. List should include name, title, and emergency contact phone numbers for each individual.

7. Statements of Final Compliance: The Contractor shall submit to the City the following documentation, in addition to the Project’s General Conditions. All submittals shall be completed and approved prior to the release of the final retainer.

- a) Certificates of Substantial and Final Completion. Contractor shall submit in writing, the date on which work is substantially completed and upon Final Completion. Any deviation from the stated contract completion date to what is being submitted shall be explained further by the Contractor. The City, at their discretion, will further review this subject, as needed.

- b) Final Waiver of Lien

Contractor shall furnish a written report indicating the resolution of any and all property damage claims filed with Contractor by any party during the contract period. The information shall include the name of claimant; date filed with Contractor; name of Insurance Company and/or Adjustor handling the claim; how the claim was resolved; if claim was not resolved for the full amount, a statement indicating the reason for such action. If there were no damage claims filed with the Contractor, then this shall be so stated in the report.

4. Asphalt Binder Price Adjustment: PN 535 - 04/15/2011 - Asphalt Binder Price Adjustment for Multi-Year Projects

Eligibility

If the Department's asphalt binder index has increased or decreased in excess of 10%, asphalt concrete may be eligible for a price adjustment. The total price adjustment must be more than \$100 for any contract item. Eligibility is determined as follows:

1. Any contract item listed in the Schedule of Contract Items specifying more than 500 CY (382 m³) of asphalt concrete and with more than 500 CY (382 m³) of asphalt concrete complete, in-place, and accepted; or
2. For design-build projects, any contract item listed in the Schedule of Contract Items and with more than 500 CY (382 m³) of asphalt concrete complete, in-place, and accepted.

Asphalt Binder Index

The Department will establish and publish the asphalt binder index for each month of each calendar year. The asphalt binder index will be posted on the Department's website.

The Department will establish the asphalt binder index based on the data provided in the Poter & Partners, Inc., Asphalt Weekly Monitor[®] (AWM) (<http://www.poten.com/copyright.asp>).

The Department will use the selling price for PG 64-22 paving grade asphalt from the Midwest/Mid-continent Markets of Illinois/Michigan/Ohio/Indiana/Kentucky for the Ohio cities/areas listed. The Department will average the Ohio cities/areas low and high selling prices as published in the last weekly publishing period of each month that includes the last Friday of the month. This calculated asphalt binder index will be posted by the Department as the index for the following month.

The Director will determine the asphalt binder index in the event data from the AWM is unavailable for any reason.

Calculation

If the ratio of the Placing Index (PI) to the Bidding Index (BI) is greater than 1.10 or less than 0.90, the Department will adjust the compensation the Contractor receives for eligible quantities of asphalt concrete. The adjustment is based on the bid month and the month of asphalt concrete placement. The adjustment will apply to the price for asphalt binder used in eligible asphalt concrete quantities according to the following formula:

For a price increase:

$$PA = \left(\frac{PI}{BI} - 1.10 \right) \times C \times Q$$

For a price decrease:

$$PA = \left(\frac{PI}{BI} - 0.90 \right) \times C \times Q$$

Where:

PA = Price Adjustment

BI = Bidding Index, the asphalt binder index for the month the project is bid

PI = Placing Index, the asphalt binder index for the month the asphalt concrete is placed

C = BI x percent virgin asphalt binder / 100

Q = eligible quantity of asphalt concrete in tons (metric tons)

The percent of virgin asphalt binder used to calculate C is determined from the approved Job Mix Formula (JMF).

The eligible quantity of asphalt concrete, Q, is the complete, in-place, and accepted quantity in tons (metric tons) placed in the month being considered for price adjustment. If the quantity is paid in cubic yards (cubic meters), the Department will convert the volume into tons (metric tons) using the conversion factor established according to the Department's Construction and Material Specifications Item 401.21.

If eligible asphalt concrete is placed beyond an approved Contract Completion Date, the Department will base price adjustments on either the PI for the last month of the approved Contract Completion Date, or the PI for the actual month of placing, using whichever PI is less.

At a minimum, the Department will calculate and apply price adjustments at the end of each construction season and as soon as practical after the completion of the project.

Supplemental Specification 05-01

SANITARY SEWER TELEVISION (CLOSED CIRCUIT TV) INSPECTION AND DOCUMENTATION PROCEDURE

June 2001

- 05.01 Description
- 05.02 Equipment
- 05.03 Maintenance of Traffic
- 05.04 Safety
- 05.05 Procedures for Reducing Excessive Sewerage Flow
- 05.06 Documentation of Televised Sewer Inspection

05.01 DESCRIPTION. This item shall consist of furnishing all labor, material and equipment, as specified under this section, to complete closed circuit televising and documenting sewers of various sizes, as shown on the plans or as directed by the City Engineer.

The cost for all work related to this item shall be considered incidental to the cost of the new or modified sewer. No separate payment will be made by the City.

All main lines shall be inspected and documented for acceptability and provide documentation to any potential problems or deviations from the proposed specifications

Televising inspection service may be done simultaneously with deflection test as approved by the City Engineer. However, in the event of deflection failure or low pressure air testing fails and a repair or replacement of the sewer is required, the Contractor shall be obligated to re-televising and document the repaired section of the sewer.

The Contractor shall be responsible for obtaining information such as: depth of flow, sewer velocities, rates of flow, manhole depths, air quality in sewers, traffic conditions and other pertinent information which may be necessary to complete the work as specified.

05.02 EQUIPMENT List of Equipment

05.021 Television Camera: The television camera used for the inspection shall be one specifically designed for such inspection and have radial view capability. The lighting for the camera shall be suitable to allow a clear picture of the entire periphery of the pipe. The camera shall be operative in 100% humidity conditions and shall have either

automatic or remote focus and iris controls. The camera, television monitor, video recorder and all other components of the video system shall be capable of producing color picture quality to the satisfaction of the City Engineer. The videotape with audio shall be provided on 2-hour VHS cassettes with a tape width of ½ inch and be recorded in the 2-hour mode. The videotape shall be of the long life, self lubricating type, produced under rigid quality control standards and provide the highest quality picture and sound.

The camera shall be moved through the sewer line by devices that do not obstruct the camera view or interfere with proper documentation of sewer conditions.

05.022 Camera Monitor: The monitor shall be located on-site within a mobile TV studio large enough to accommodate a minimum of four people for the purpose of viewing the monitor during the inspection process. The City Engineer or his representative shall have access to view the monitor at all times.

05.023 Winching: When manual operated winches are used to pull the camera through the sewer line, telephones or other suitable means of communication must be established between the winch operator and the video system operator.

05.024 Accuracy: The importance of accurate distance measurements is emphasized. The video equipment shall be capable of recording an accurate horizontal distance measurement from the starting point to the point of observation of the camera. Markings on the cable, or the like, which would require interpolation for the depth of manholes is not acceptable. Accuracy of the metering device shall be verified by use of a walking meter, roll-a-tape, or other approved device, and shall be satisfactory to the City Engineer or his representative.

05.03 MAINTAINING TRAFFIC: The Contractor shall arrange with the City's Project Representative at least 48 hours in advance to the commencement of procedure.

The Contractor shall be responsible for maintaining traffic at all times in accordance with the requirements set forth in the Ohio Manual of Uniform Traffic Control Devices and as per Item 614-Maintaining Traffic, of the latest edition of the Ohio Department of Transportation, Construction and Material Specifications.

All traffic control devices including plastic drums, cones, temporary signs, flashing arrow panels, etc. shall be placed in accordance with the O.D.O.T. Standard Drawings.

Any temporary roadway or lane closing(s) shall be kept to a minimum and must be approved and coordinated with the City's Traffic Engineering Office at least five (5) working days in advance. The City's Traffic Engineering Office shall notify the news media and emergency departments when necessary.

The Contractor shall maintain access to and from all properties along the line of work at all times, unless otherwise coordinated and approved by the Engineer.

05.04 SAFETY: The Developer/Contractor shall be responsible for conducting his work in accordance with all applicable laws as prescribed by the "Occupational Safety and Health Act of 1970" and shall do everything reasonable necessary to protect the life, health, safety and welfare of any employee, visitor or pedestrian.

05.05 PROCEDURES FOR REDUCING EXCESSIVE SEWERAGE FLOW (during sewer televising):

Reducing flow shall be performed with the approval of the City when the flow at the upstream manhole, of the sewer section to be televised, is greater than 33% of the pipe diameter. In the event that televising is not permitted, due to excessive depth of flow, the Contractor shall perform the work by one of the following methods only as directed by the City Engineer:

1. Televising may be performed during low flow periods (off peak hours), such as night hours. No additional compensation will be paid by the City for this work. Times for the above work shall be scheduled by the City Engineer.

2. A sewer plug, or sand bags, shall be inserted into the line upstream of the section being televised to achieve the required maximum depth of flow. (The plug shall be so designed that all or any portion of the sewage can be released during the televising inspection.) Immediately after the work has been completed for that particular section of sewer, the flow shall be restored to normal.

3. Bypass Pumping: When required, as noted above, the Contractor shall supply the pumps, conduits, and other equipment to divert the flow of sewage around the sewer section to be televised. The bypass system shall be of sufficient capacity to handle existing flow plus additional flow that may occur during a rainstorm.

NOTE: When flow in a sewer is plugged, blocked or bypassed, the Contractor must take sufficient precautions to protect the sewer lines from damage that might result from sewer surcharging. Further precautions must be taken to insure that sewer flow control operations do not cause flooding or damage to public or private property being served by the sewer system. The Contractor shall be solely responsible for any damages as a result of their actions.

05.06 DOCUMENTATION OF TELEVISED SEWER INSPECTION:

The Contractor shall assign personnel or firm familiar with televising procedures and their requirements set forth.

The Contractor and City's Project Representative shall be present at all times during the televising procedure, unless otherwise approved by the City Engineer.

Original color videotape recordings shall be forwarded to the City Engineer for replay and shall become the property of the City upon final approval of the City Engineer. The tapes shall be professionally labeled showing the City's name, the lines or sections recorded on the tape, tape number as referenced on a log, the name of the Contractor, and other labeling approved by the City Engineer. Reprocessed tapes or copies will not be accepted. All unacceptable tapes will be returned to the Contractor.

An accurate and continuous footage reading shall be superimposed on the video recording for each line inspected. The header shown on the tape prior to inspecting each line shall include at a minimum, the date of inspection, the diameter of the sewer and the manhole number designation for each manhole on the line section inspected, as established and referenced on the Contractor's inspection log.

The camera may be moved through the sewer line in either direction, at a rate not to exceed 30 feet per minute, and stopping when necessary to permit proper documentation of the sewer's condition, as outlined elsewhere in this section.

The video recording shall be augmented with audio voice recording calling out the nomenclature of the sewer system, the pipe, manholes, wyes, debris, mud, roots, water, "event" (bad joints, cracked, damaged, or deformed pipe) or any other information that would be of use to internal inspection of sewers.

The voice shall be clean, concise, and loud enough to overcome any background noise from machinery or equipment. The audio annotation shall start by identifying the pipe footage from the downstream manhole of the run and then go on to identify the "event". The camera shall stop at each "event" if it is something out of the ordinary as indicated above. It is left to the discretion of the Contractor as to whether the "event" is of such severity (or unidentifiable) to warrant reversing the camera one or more times to catch a better view.

At locations of the "events" described above, as well as at all service connections, the camera's radial view capabilities shall be utilized where appropriate, to carefully view the "event" so as to allow the City to make a better determination of the severity of a problem or to determine the condition of service line connections.

In addition to videotape recordings, the Contractor shall furnish the City with one copy of a television inspection log. This inspection log shall be printed on a format pre-approved by the City. The log shall accurately describe in detail and reference all information required on the videotape recording of each section chronologically.

SPECIAL PROVISIONS

(78) These Special Provisions elaborate upon, clarify and amend some of the Specifications and clauses of the Contract documents; they are a part of the Contract documents and change and amend those found elsewhere only in the manner and to the extent stated.

Federal Government Participation:

An agency of the Government may be participating financially in this project. Attention is called to the various requirements of the Federal Government in connection with this contract, all of which are contained herein, and especially to those pertaining to Labor Standards and non-discrimination in employment.

Equal employment opportunity

The Contractor will comply with all provisions of Executive Order Number 11246 of September 24, 1965, and of rules, regulations, and relevant orders of the Secretary of Labor.

E.E.O. Requirements:

This project is governed by EEO requirements as described in Appendix G, ODOT/Federal Requirements.

§ Section 105 of City Codified Ordinance

105.01 CONSTRUCTION CONTRACTS

(a) Definitions- For purposes of this chapter, the following definitions shall apply:

(1) "Public contract" or "construction project" means either of the following:

A. Any new construction of any public improvement, the total overall project cost of which is estimated to be more than one hundred thousand dollars (\$100,000) and performed by other than full-time employees of the City who have completed their probationary periods in the classified service. Determination of project cost shall be subject to be the biennial increase or decrease provided for by Ohio R.C. 4115.034; or

B. Any construction, reconstruction, improvement, enlargement, renovation, alteration, repair, painting or decorating of any public improvement, which is estimated to be more than \$20,000.00 and performed by other than full-time employees of the City who have completed their probationary periods in the classified service. Determination of project cost shall be subject to the biennial increase or decrease provided for by Ohio R.C. 4115.034

(2) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works and all other structures or works constructed by the City or by any person or entity, who, pursuant to a contract with the City, constructs any public improvement for the City. A public improvement shall be considered as one project where a review of the nature, scope and objective, as well as the interrelationship of time and purpose of the project, evidences the undertaking of a single public improvement pursuant to Ohio R.C. 4115.033 and O.A.C. 4101:9-4-17.

(3) "Local employee" means:

A. A person residing within the City of Canton or Stark County;

B. A person working for a contractor or from a pool of labor located within the City of Canton or Stark County; or

C. Due to the specialty nature of the employment to be performed, where a suitable person meeting either subsection (a)(3)A. or B. hereof is not available, a person residing or working within a location as close to Canton as is available. A "suitable person" means a person who is qualified to perform the work or trainable within a reasonable period of time.

(b) Project Labor Agreement

~~(1) In connection with the public bidding and contract awarding process for every proposed public contract or construction project, the Mayor, or his designee, shall evaluate whether a project labor agreement will advance the City's procurement interest in cost, efficiency, and quality while promoting labor-management stability as well as compliance with applicable legal requirements governing safety and health, equal employment opportunity, labor and employment standards, and other related matters.~~

~~(2) If the Mayor, or his designee, determines that a project labor~~

~~agreement will serve the goals set forth above, the Mayor, or his designee, shall negotiate a project labor agreement with the East Central Ohio Building and Construction Trades Council and its affiliated local unions, or said Council's successor.~~

~~(3) The bidding documents for each such construction project shall contain a written provision requiring the successful bidder to comply with and adhere to all of the provisions of any project labor agreement negotiated by the Mayor for the project.~~

~~(4) The City shall not thereafter enter into any contract with the successful bidder for the construction of any such city building unless the contract contains a provision requiring the successful bidder, and all of the bidder's contractors and subcontractors, to comply with and adhere to the provisions of the negotiated project labor agreement.~~

~~(5) If the Mayor, or his designee, with respect to any proposed construction project, determines that a project labor agreement will not serve the goals set forth in subsection (b)(1), the Mayor shall submit a written report to the Clerk of Council that shall state the reasons for concluding that a project labor agreement for the project will not substantially further the purposes of this section.~~

(c) Bids and Required Bidder Information. Upon Council approval, the Director of Public Service and/or Director of Public Safety shall advertise and accept bids for a construction project in accordance with the following procedures:

(1) Contracts shall be bid as follows:

A. An aggregate bid from a general contractor; or

~~B. Separate bids for work and materials from multiple prime contractors.~~

(2) Bidders for all proposed construction projects shall be required to furnish the following information:

A. The work, supplies and materials covered by the bidder's bid.

B. Identification of all work to be subcontracted. All subcontractors are also subject to the approval of the Board of Control based on the criteria contained in this section.

C. Descriptions of bidder's experience with projects of comparative size, complexity and cost within recent years, demonstrating the bidder's ability and capacity to perform a substantial portion of the project with its own forces.

D. Documentation from previous similar projects regarding timeliness of performance, quality of work, extension requests, fines and penalties imposed and payments thereof, liens filed, history of claims for extra work, contract defaults, together with explanations of the same.

E. The number of years the bidder has been actively engaged as a contractor in the construction industry.

F. The bidder's recent experience record in the construction industry, including the original contract price for each construction job undertaken by the bidder, the amount of any change orders or cost overruns on each job, the reasons for the change orders or cost overruns, and the bidder's record for

complying with and meeting completion deadlines on construction projects.

G. Identification of any projects within the previous five years that the bidder was determined by a public entity not to be a responsible bidder, the reasons given by the public entity, together with an explanation thereof.

H. Demonstration of financial responsibility to assure that the bidder possesses adequate resources and availability of credit, the means and ability to procure insurance and acceptable performance bonds required for the project and whether any claims have been made against performance bonds secured by the bidder on other construction projects.

I. Disclosure of any suspension or revocations of any professional license of any director, officer, owner, or managerial employees of the bidder, of the extent that any work to be performed is within the field of such licensed profession.

J. Disclosure of any and all OSHA violations within the previous three years, as well as all notices of OSHA citations filed against the bidder in the same three year period, together with a description and explanation of remediation or other steps taken regarding such violations and notices of violation.

K. Disclosure of any and all violations within the previous five years pertaining to unlawful intimidation or discrimination against any employee by reason of race, creed, color, disability, gender, or national origin and/or violation of any employee's civil or labor rights or equal employment opportunities.

L. Disclosure of any litigation (including copies of pleadings) in which the bidder has been named as a defendant or third party defendant in an action involving a claim for personal injury or wrongful death arising from performance of work related to any project in which it has been engaged within the previous five years.

M. Disclosure of allegations of violations of the prevailing wage law and any other state or federal labor law, including, but not limited to, child labor violations, failure to pay wages, or unemployment insurance tax delinquencies or unfair labor practices within the past five years.

N. Disclosure of violations of the workers compensation law.

O. Disclosure of any criminal convictions or criminal indictments, involving the bidder, its officers, directors, owners, and/or managers within the past five years.

P. Disclosure of any violation within the past five years or pending charges concerning federal, state, or municipal environmental and/or health laws, codes, rules and/or regulations.

Q. Documentation that the bidder provides health insurance and pension benefits to its employees.

R. The experience and the continuity of the bidder's work force.

~~S. The identity of the bidder's permanent work force that will be employed on the public contract, to include the number of employees (or contract labor) to be assigned to the contract, their city and state of residence, and their job descriptions or trade specialities.~~

~~T. The identity of any temporary work force that will be employed on~~

~~the public contract, to include the number of employees (or contract labor) to be assigned to the contract, their city and state of residence, and their job descriptions or trade specialties.~~

~~U. Whether the bidder's work force is drawn mainly from local employees. The number of local employees, as defined in paragraph (a)(3), and their job descriptions or trade specialties that the bidder will employ on the public contract.~~

~~V. When a bidder claims that non-local employees (or non-local contract labor) are to be assigned to the public contract instead of local employees, the reasons therefor.~~

~~W. When a bidder claims that local employees are not intended to be used by the bidder on the public contract because they are not available, qualified or trainable within a reasonable period of time, the reasons therefor.~~

X. Whether the bidder participates in a bona fide apprenticeship program that is approved by the Ohio State Apprenticeship Council and the United States Department of Labor.

Y. Whether the bidder has adopted and implemented a comprehensive drug and alcohol testing program for its employees.

Z. Whether the bidder's employees are OSHA-10 and/or OSHA-30 certified.

(d) Each factor enumerated in subsection (c)(2), standing alone, shall not be considered as determinative of the lowest and best bid. The City shall have complete discretion in assessing the level of importance to be placed upon any one or more of the factors enumerated and in determining the lowest and best bid and in awarding the construction contract.

(e) All bid invitations and specifications for construction, repair and renovation work shall advise prospective bidders of all of the factors that will be taken into consideration by the Board of Control in determining whether a bid is not only the lowest but the "best" bid. Bid specifications shall contain provisions conforming to this chapter, including a form or forms to enable a bidder to provide evidence to the Board of Control of the bidder's compliance with, adherence to, or satisfaction of, the various factors that shall be considered by the Board in determining the lowest and best bid.

(Ord. 86-2009. Passed 5-18-09.)

105.02 CONFORMANCE WITH LOCAL UNION PRACTICES

(EDITOR'S NOTE: This section was repealed by Ordinance 99-89, passed May 22, 1989.)

105.03 U.S. STEEL USAGE REQUIRED; EXCEPTION

All City contracts shall stipulate or provide that all steel necessary in the construction of any work performed under such contracts shall be steel that is produced in the United States unless a specific product which is required is not produced by manufacturers in the United States in which event this prohibition does not apply. This section shall apply to only contracts awarded by the Board of Control of the City. (Ord. 224-77. Passed 6-27-77.)

~~105.04 EMERGENCY CONTRACTUAL PROCEDURES~~

~~— (a) — Upon the occurrence of any emergency situation within City government that affects the health, safety and welfare of this City and which requires the immediate attention on the part of the executive members of City government, the appropriate City official, i. e. Mayor, Service Director or Safety Director, a written report shall be submitted to the Clerk of Council with a copy of this report to the Chairman of the Finance Committee and, if applicable, a copy to the chairman of any other committee of Council that normally will be charged with the responsibility of the subject matter of the emergency.~~

~~— (b) — Such written report and copy or copies shall be submitted to Council for the Council agenda for the next succeeding Council meeting, as long as the emergency did not exist seventy-two hours before the preceding meeting.~~

~~— (c) — The written report shall be placed on the Council agenda for the next succeeding Council meeting.~~

~~— (d) — Written reports shall to the extent possible:~~

~~— (1) — Describe the nature of the emergency;~~

~~— (2) — Provide the various alternatives being provided to correct the problem;~~

~~— (3) — Name the appropriate department head charged with the responsibility of coping with the emergency;~~

~~— (4) — Name contractors or persons who are being considered to undertake the responsibility of dealing with such an emergency;~~

~~— (5) — Name the contractors or persons who are performing the work necessary to undertake the responsibility of dealing with the emergency;~~

~~— (6) — Provide the estimate cost for such an undertaking if this information is available; and~~

~~— (7) — Provide effort and time for the work to be performed by such contractors or persons if available, and other relevant information that is necessary to give Council the full picture and the process being used to determine the resolution of such emergency.~~

~~— (e) — Strict compliance of the foregoing on the part of those who may have to proceed with the remedy or repair of an emergency situation without prior legislative authority will be a substantial consideration on the part of Council in subsequently enacting the legislation to compensate the person who has undertaken such emergency work.~~

~~— (f) — Upon receipt of such written notice, the chairman of the Council committee(s) shall make reasonable efforts to come in contact with the City department director who has assumed the responsibility of coping with such emergency situation.~~

~~— (g) — The Board of Control is directed to notify and invite all contractors to enter their names on a list with the City if they wish to participate in handling work or supplying material for the City on an emergency basis. A copy of the contractors who will participate is to be registered with the Clerk of Council. (Res. 76-76. Passed 3-1-76.)~~

ADDITIONAL REQUIREMENTS AND/OR CONDITIONS

- A. Notwithstanding any provisions to contrary, Ohio Law shall govern this Agreement.
- B. Supplier agrees that Canton's specifications and bid documents shall incorporate and made part of any subsequent contract entered by the parties. Further, the terms, conditions and provisions found in Canton's specifications and bid documents shall supersede and control any subsequent contract provisions to the contrary.
- C. Once both parties have fully executed the contract, said contract shall be binding upon the parties' heirs, successors and assigns.
- D. Supplier shall not assign or transfer any interest under this agreement without the express written consent of Canton.
- E. Supplier agrees to indemnify and hold harmless the City of Canton, Ohio, its employees and agents from and against all demands, claims, causes of action, or judgments or omissions by Supplier, its agents, employees or subcontractors. Nothing herein shall be construed to hold Supplier liable for Canton's negligence.
- F. Supplier's liability to the City of Canton for default shall not be limited and the City if Canton shall be entitled to all damages permitted under Ohio law upon Supplier's breach, default or non-performance under this Agreement.
- G. A waiver of a breach of any of the terms or conditions of the contract will not be construed as a waiver of any subsequent breach. Any consent to delay in the performance of contractor of any obligation shall be applicable only to the particular transaction to which it relates, and it shall not be applicable to any other obligation or transaction. Delay in the enforcement of any remedy in the event if a breach of any term or condition of the contract or in the exercise by either party of any right under the contract shall not be construed as a waiver.
- H. When, during the course of construction, it appears to the contractor that any work does not conform to the provisions of the contract documents, it will make necessary corrections so that such work will conform. Additionally, the Contractor will correct any defects caused by faulty materials, equipment or workmanship in work supervised by the Contractor or by a subcontractor. This shall apply to the Contractor or any subcontractor appearing within one year from the date of issuance of a certificate of substantial completion or within such longer periods as prescribed by law or by applicable special guarantees or warranties in the contract documents.
- I. The owner reserves the right to order work changes in the nature of additions, deletions, or modifications, without invalidating the contract, and agrees to make corresponding adjustments in the contract price and time of termination if necessary. The Owner will authorize all changes by a written change order signed by the owner, or the architect of other designee of the owner. The change order will include conforming changes in the contract and termination time.
- J. Work changed, and the contract price and termination time modified only as set out in the written change order. Any adjustment in the contract sum resulting in a credit or a charge to the owner will be determined by mutual agreement of the parties before starting any work involved in the change work.

NOTICE OF WITHDRAWAL

PLEASE NOTE THAT BY SUBMITTING YOUR BID(S) TO THE CITY OF CANTON, THE CITY ASSUMES THAT SAID BID(S) HAS/HAVE BEEN REVIEWED BY AN AUTHORIZED REPRESENTATIVE OF YOUR COMPANY TO ASSURE THAT THE BID(S) IS/ARE CORRECT AND/OR ACCURATE.

ANY BIDDER MAY WITHDRAW THE BID(S), BY WRITTEN REQUEST, AT ANY TIME PRIOR TO THE HOUR SET FOR THE BID OPENING.

IF THERE IS NO WITHDRAWAL OF THE BID(S), IN ACCORDANCE WITH THE ABOVE PROCEDURE, THE CITY RESERVES THE RIGHT TO ENFORCE SAID BID PRICE(S) AND/OR CONTRACT.

ARTICLES OF INCORPORATION

UNLESS THE BIDDER SUBMITS, WITH ITS BID, THE “ARTICLES OF INCORPORATION” SHOWING EXACTLY WHAT NAME YOU ARE INCORPORATED UNDER WITH THE STATE OF OHIO, CANTON MAY REQUEST THE BIDDER PROVIDE THIS INFORMATION.

THE ARTICLES OF INCORPORATION ARE THE DOCUMENTS FILED WITH THE STATE (OHIO OR OTHERWISE) CREATING THE CORPORATE ENTITY.

APPENDIX

A

Prevailing Wages

This project will utilize Federal Prevailing Wage Rates.

APPENDIX A

AFFIDAVIT OF COMPLIANCE

PREVAILING WAGES

I _____,
(Name of person signing affidavit) (Title)

do hereby certify that the wages paid to all employees of the _____
(Company Name)

for all hours worked on the _____
(Project and Location)

project, during the period from _____ to _____
(Project Dates)

are in compliance with State prevailing wage requirements.

I further certify that no rebates or deductions have been or will be made, directly or indirectly, from any wages paid in connection with this project, other than those provided by law.

(Signature of Officer or Agent)

Sworn to and subscribed in my presence this _____ day of _____, 20 _____.

(Notary Public)

The above affidavit must be executed and sworn to by the officer or agent of the Contractor or Subcontractor who supervises the payment of employees. This affidavit must be submitted to the owner (public authority) before the surety is released or final payment due under the terms of the Contract is made.

[INSERT PREVAILING WAGE HERE]

APPENDIX

B

Bid Forms

Bid Form 1

AUTHORITY OF BID SIGNATORY

The bidder shall indicate which of the following is the source of the bid signatory's authority to sign the bid on behalf of the bidder. The bidder shall follow the instructions noted.

- _____ The party bidding is a sole partnership. Below the signature affixed on the Proposal Sheet, a sole proprietorship's owner shall write "sole owner" or "doing business as (name of bidder)".

- _____ The party bidding is a partnership and the party signing is one of the partners. Below the signature affixed on the proposal sheet, a signatory for a partnership shall write "member of the firm".

- _____ The party is a corporation. The party signing is authorized to sign on behalf of the corporation. A copy of the resolution of the corporation's board of directors which delegates signatory authority to the individual signing is to be attached to this bid form. This resolution can be a general delegation of authority for signing bids or can be a specific authorization for this project. The secretary of the corporation shall authenticate the resolution as currently being in full force and effect.

- _____ Signatory authority is evidenced by other means noted below:

Bid Form 2

INSERT BID GUARANTY HERE

Each proposal shall be accompanied by a bid guarantee which shall consist of one of the following:

Ohio Statutory Bid Guaranty and Contract Bond must be substantially in the form prescribed by ORC 153.571. The 153.571 statutory bond forms require that the penal amount be an amount not less than the bid price. It is a bid error to write in an amount equal to ten percent (10%) of the amount bid.

NOTE: Make a certified check or cashier's check in an amount not less than ten percent (10%) of the total amount bid for all items of the proposal. Such a bid guarantee check shall be made payable to the OWNER without condition.

Bidders using the Ohio Statutory Bid Guaranty and Contract Bond Form can leave the penal amount blank, if such is acceptable to the bidder and the surety. The statutory bond form, per ORC 153.571, the penal amount equal to the price bid, if the amount is left blank.

In case a bidder to whom a contract award is made shall fail to execute and secure a contract within ten (10) days after notice of award in writing, the award shall be vacated and the bid guarantee, in an amount not to exceed ten percent (10%) of the amount bid, forfeited.

An approved surety company must provide bid Bond. This company must be authorized to transact business in the State of Ohio and with local agent. Agents of bonding companies shall be licensed to conduct business in the State of Ohio and have a local (Ohio) agent. Each bid shall contain the power of attorney, bearing the seal of the company and evidencing such agent's authority to execute the documents furnished. Identification of the local agent is to accompany each Bond.

The surety used for the bid bond shall be listed in the current edition of the U.S. Treasury Circular 570 and the Penal Sums shall be within the maximum specified for such company in said Circular 570.

2. Form of Business Organization.

____ Corporation

____ Partnership

____ Other

3. The bidder shall provide the names and addresses of all persons interested as principals (officers, partners, and associates) in this proposal. Write first name in full, and give titles for offices.

_____	_____
_____	_____
_____	_____
_____	_____

All of the above, including the signatory to this bid, are citizens of the United States, except the following. (Provide names and addresses of those not a citizen of the United States.)

_____	_____
_____	_____
_____	_____
_____	_____

4. Name and address of other person, firms or companies interested in this contract.

_____	_____
_____	_____
_____	_____
_____	_____

The undersigned certifies that the bidder has the facilities, ability and financial resources available for the fulfillment of the contract if such be awarded to said bidder.

Upon request, the bidder will be expected to amplify the foregoing statements as necessary to satisfy the OWNER concerning his ability to successfully perform the work in a satisfactory manner.

Signed this _____ day of _____, 20 _____.

Contractor

By _____
(Signature of individual, partner or officer signing the proposal.)

Please have this page Notarized

Bid Form 4

PROJECT REFERENCES

Each bidder shall provide a list of comparable projects performed over the last three (3) years (maximum of 10) indicating the following:

- Owner (with name, address and telephone number of Owner's project manager).
- General description of work, and size and type of project. Also indicate whether participation was as a prime or subcontractor. If the bidder's participation on the project was as a subcontractor, identify prime contractor with information requested above for the OWNER.

All previous work for the OWNER over the last five (5) years should be identified.

INSURANCE AFFIDAVIT

Each bidder shall obtain from its insurance representative and include in the bid submittal an insurance affidavit that contains the representations noted below. Make the affidavit on the insurance agency's letterhead, reference this project by name, and state at least the following:

- (1.) The representative has reviewed and understands the insurance requirements (including the cancellation/non-renewal provisions) set forth in "General Conditions" § 1.14 Insurance.
- (2.) The representative certifies that the company will provide the specified insurance should the contract be awarded to the contractor on whose behalf the certificate is being provided.
- (3.) The names and A.M. Best Company ratings of companies required to provide the required insurance.

You must have the insurance affidavit notarized.

"General Conditions" INSURANCE § 1.14

- A. The following standard indemnity agreement and minimum insurance requirements are incorporated in the Specifications for all work performed by the Contractor for the Owner, its affiliated and associated organizations or subsidiaries, hereinafter referred to as Owner.
 - I. The Contractor agrees to indemnify and save the Owner (City of Canton, The Ohio Department of Transportation, Akron Metro Regional Transit Authority, and Wheeling & Lake Erie Railway) harmless from and against any and all costs, loss and expense, liability damages, or claims for damages, including cost for defending any action, on account of any injury to persons (including death) or damage to or destruction of property of the Owner, arising or resulting from the work provided for or performed, or from any act, omission, or negligence of the Contractor, Subcontractor and his or their agents or employees. The foregoing provisions shall in no way be deemed released, waived or modified in any respect by reason of any insurance or surety provided by the Contractor.

II. The Contractor shall maintain insurance of the kinds and in amounts specified in the attached schedule and furnish the Service Director with Certificates of Insurance as evidence thereof in the prescribed form. If any work provided for or to be performed under any Specifications is sublet (as otherwise permitted by the terms of such Specifications), the Contractor shall require the sub-contractors to maintain and furnish him with satisfactory evidence of Workmen's Compensation, Employers' Liability and such other forms and amounts of insurance which Contractor deems reasonably adequate.

III. In accordance with Item II, the Contractor shall maintain the following insurance:

1. Workmen's Compensation and Employer's Liability

Insurance affording,

- (a) protection under the Workmen's Compensation Law in the State of Ohio.
- (b) Employer's Liability protection subject to a minimum limit of \$100,000.00.

2. Commercial General Liability Insurance in amounts not less than:

General Aggregate Limit	\$4,000,000.00
Products - Completed Operations Aggregate Limit	\$2,000,000.00
Personal and Advertising Injury Limit	\$2,000,000.00
Each Occurrence Limit	\$2,000,000.00
Fire Damage Limit	\$50,000.00
Medical Expense Limit	\$5,000.00

This insurance shall:

- a. include coverage for the liability assumed by Contractor under Item I (Indemnity);
- b. not to be subject to any of the special property damage liability exclusions commonly referred to as the XCU exclusions pertaining to blasting or explosion, collapse or structural damage and underground property;
- c. not be subject to any exclusion of property used by the insured or property in the care, custody or control of the insured or property as to which the insured for any purpose is exercising physical control unless the required Builders Risk or Installation Floater coverage is indicated on the required Certificate of Insurance (Item III.4);

- d. and the Certificates of Insurance furnished by the Contractor shall show by specific reference that each of the foregoing items have been provided for.
- e. **INCLUDE THE CITY OF CANTON, THE OHIO DEPARTMENT OF TRANSPORTATION, AKRON METRO REGIONAL TRANSIT AUTHORITY, AND WHEELING & LAKE ERIE RAILWAY AND THEIR AGENTS, AS ADDITIONAL INSURED FOR PURPOSES OF COVERAGE UNDER THE SUBJECT POLICY.**

3. Comprehensive Automobile Liability Insurance in the following minimum amounts:

Bodily Injury and Property Damage any one accident or loss:	\$1,000,000.00
--	----------------

4. The contractor will provide and maintain Installation/Builders Risk Insurance to protect the interests of both the contractor and the owner for materials transported to the job, stored or installed on the premises, or stored at any temporary location off premises. Such insurance shall be written on an "All Risk" form to include the perils of Fire, Extended Coverage, Vandalism, Malicious Mischief, Theft, Collapse and Water Damage. The amount of Insurance shall be 100% of the insurable value of the work performed. It should include all items of labor and materials incorporated therein, materials in storage, on or off the job site, scheduled for use in completing the work, and such other supplies and equipment incidental to the work as are not owned or rented by the contractor, the cost of which is included in the direct cost of the work. This Insurance shall not cover any tools, derricks, machinery, tar buckets, ladders, engines, workmen's quarters, boilers, pumps, wagons, scaffolds, forms, compressors, shanties or other items owned or rented by the Contractor, the cost of which is not included in the direct cost of the work.

- B. The Certificates of Insurance furnished by the Contractor as evidence of the Insurance maintained by him shall include a clause obligating the Contractor to give the Service Director ten (10) days prior written notice for cancellation or any material change in the insurance.

are the only party or parties interested with the party making this bid in the profits of any contract which may result from the herein contained proposal; that the said proposal is made without any connection or interest in the profits thereof with any other person making any other bid or proposal for said work; that no member of the City of Canton, head of any department or bureau or employee therein or any official or officer of City of Canton, is directly or indirectly interested therein; that said proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person, to put in a sham bid, or that such person shall refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the OWNER, or any person interested in the proposed contract; and that all statements contained in said proposal or bid are true; that such bidder has not, directly or indirectly submitted this bid, or the contents thereof, or divulged information or data relative thereto any association or to any member or agent thereof; and further says that all the statements made by him in said proposal or bid are true.

Affiant

Sworn to and subscribed before me this _____ day of
_____, 20 ____.

Notary Public in and for

_____ County,

My Commission Expires:

_____, 20 ____.

Bid Form 7

BIDDER'S AFFIDAVIT: FOREIGN CORPORATION*

The undersign certifies that _____ is a foreign corporation incorporated in the State of _____, whose principal place of business is _____ and is required to obtain authorization to transact business in the State of Ohio.

The undersigned bidder further certifies that said authorization has been obtained and is in effect and the bidder has a designated statutory agent upon whom process against bidder corporation may be served within the State of Ohio. The designated

statutory agent is

(name and address)

Process served upon the designated statutory agent named above shall be effective service, unless the Owner has been informed, by certified mail or its equivalent (return receipt), of a change in the agent upon whom process can be served.

Date

Signed

Title

Note: This statement is to be reproduced on the bidder's letterhead, signed by the authorized bid signatory, notarized and submitted with the bid.

***Any corporation that is not incorporated in the State of Ohio is a foreign corporation.**

LISTING OF SUBCONTRACTORS

The Bidder shall set forth the name, location of principal place of business, proposed amount of subcontract and type of work to be performed of each subcontractor who will perform work or labor or render service, as listed, to the bidder in or about the construction of the work or improvement to be performed under the Contract for which the attached Bid is submitted, and where the portion of the work which will be performed by each subcontractor. Note that subcontractors are distinguishable from suppliers.

Subcontractor - An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the work at the site.

Supplier - A manufacturer, fabricator, supplier, distributor, material man, or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the work by the CONTRACTOR or any Subcontractor.

The Bidder understands that if he fails to specify a subcontractor for any portion of the work to be performed under the Contract, he shall be deemed to have agreed to perform such portion itself.

PERSONAL PROPERTY TAX CERTIFICATION (ORC 5719.042)

Office of the Auditor
City of Canton
City Hall 218 Cleveland Avenue S.W.
Canton, Ohio 44702

Dear Sir:

(A) The undersigned hereby certifies that the party to whom contract award is being considered was not charged with any delinquent personal property tax at the time of the bid opening the project nor is said party currently charged with such a delinquency on the general tax list of personal property for Stark County, Ohio.

or

(B) The undersigned hereby certifies that the party to whom contract award is being considered has been charged with a delinquency regarding personal property tax on the general tax list of personal property for Stark County, Ohio, either currently, or at the time of bid opening the project. The amount of the due and unpaid delinquent taxes, including any due and unpaid penalties and interest thereon is _____.

and

It is understood that, by law, this statement is to be signed by the party whose bid has been tentatively accepted, and must be affirmed under oath. the law also requires that his statement is to be submitted to the City Auditor and this statement must be incorporated into the pending contract before any payment can be made under the subject contract.

Name of Corporation

President

Secretary

NOTE: THIS FORM AND/OR CERTIFICATION MUST BE RETYPED ON THE BIDDER'S LETTERHEAD AND NOTARIZED UTILIZING EITHER PARAGRAPH (A) OR (B) AS IT APPLIES TO YOUR COMPANY.

**NOTICE OF FACTORS TO BE CONSIDERED IN DETERMINING
THE LOWEST AND BEST BID FOR THE CONSTRUCTION OF
PUBLIC IMPROVEMENTS AND QUESTIONNAIRE IN ACCORDANCE
WITH CANTON ORDINANCE 86/2009, CHAPTER 105.01**

NOTICE

~~All bidders shall hereby take notice of the factors to be considered by the Board of Control in determining whether a bid is not only the lowest bid, but the best bid. Said factors are contained in Canton Ordinance 86/2009, Chapter 105.01, a copy of which is included in these specifications.~~

QUESTIONNAIRE

When completing Bid Form #12, please submit your answers, separately, on your company letterhead and attach to Bid Form #12.

~~In accordance with Canton Ordinance 86/2009, Chapter 105.01, Section (c), each bidder must complete the following questionnaire. This questionnaire is to be completed in a truthful and responsible manner by the bidder. The City reserves the right to consider the bidder in default for any false or misleading information supplied per this questionnaire. If the bid is made by a corporation, then this questionnaire is to be completed by its properly authorized agent.~~

1. Please describe the work, supplies and materials covered by the bidder's bid.
2. Please state the identification of all work to be subcontracted. **All subcontractors are also subject to the approval of the Board of Control based on the criteria contained in this section.**
3. Please provide the descriptions of the bidder's experience with projects of comparative size, complexity and cost within recent years, demonstrating the bidder's ability and capacity to perform a substantial portion of the project with its own forces.
4. Please provide documentation from previous, similar projects regarding timeliness of performance, quality of work, extension requests, fines and penalties imposed and payments thereof, liens field, explanations of the same.
5. Please state the number of years the bidder has been actively engaged as a contractor in the construction industry.

6. Please provide your recent experience record in the construction industry, including the original contract price for each construction job undertaken by the bidder, the amount of any change orders or cost overruns on each job, the reasons for the change orders or cost overruns, and the bidder's record for complying with and meeting completion deadlines on construction projects.
7. Please identify any project(s) within the previous five years that the bidder was determined by a public entity not to be a responsible bidder, the reasons given by the public entity, together with an explanation thereof.
8. Please identify your financial responsibility to assure that the bidder processes adequate resources and availability of credit, the means and ability to procure insurance and acceptable performance bonds required for the project and whether any claims have been made against performance bonds secured by the bidder on other construction projects.
9. Please describe any suspension or revocations of any professional license of any director, officer, owner, or managerial employees of the bidder, to the extent that any work to be performed is within the field of such licensed professional.
10. Please describe any and all OSHA violations within the previous three years, as well as all notices of OSHA citations filed against the bidder in the same three year period, together with an explanation of remediation or other steps taken regarding such violations and notices of violation.
11. Please describe any and all violations within the previous five years pertaining to unlawful intimidation or discrimination against any employee by reason race, creed, color, disability, gender or national origin and/or violations of an employee's civil or labor rights or equal employment opportunities.
12. Please describe any litigation (including copies of pleadings) in which the bidder has been named as a defendant or third party defendant in an action involving a claim for personal injury or wrongful death arising from performance of work related to any project in which it has been engaged within the previous five years.
13. Please describe any allegations of violations of the prevailing wage law and any other state or federal labor law, including, but not limited to, child labor violations, failure to pay wages, or unemployment insurance tax delinquencies or unfair practices within the past five years.
14. Please describe any violations of the worker compensation law.

15. Please describe any criminal convictions or criminal indictments, involving the bidder, its officers, directors, owners, and/or managers within the past five years.
16. Please describe any violation within the past five years or pending charges concerning federal, state, or municipal environmental and/or health laws, codes, rules and/or regulations.
17. Please provide documentation that the bidder provides health insurance and pension benefits to its employees.
18. Please state the experience and the continuity of the bidder's work force.
19. Please submit the identity of the bidder's permanent work force that will be employed on the public contract, to include the number of employees (or contract labor) to be assigned to the contract, their city and state of residence, and their job descriptions or trade specialties.
20. Please provide the identity of any temporary work force that will be employed on the public contract, to include the number of employees (or contract labor) to be assigned to the contract, their city and state of residence, and their job descriptions or trade specialties.
21. Please state whether the bidder's work force is drawn mainly from local employees. The number of local employees, as defined in paragraph (a)(3) of Ordinance 86/2009, and their job descriptions or trade specialties that the bidder will employ on the public contract.
22. If the bidder claims that non-local employees (or non-local contract labor) are to be assigned to the public contract instead of local employees, please state in detail the reasons therefore.
23. If the bidder claims that local employees are not intended to be used by the bidder on the public contract because they are not available, qualified or trainable within a reasonable period of time, please state in detail the reasons therefore.
24. State whether the bidder participates in a bona fide apprenticeship program that is approved by the Ohio State Apprenticeship Council and the United States Department of Labor.
25. State whether the bidder has adopted and implemented a comprehensive drug and alcohol testing program for its employees.
26. State whether the bidder's employees are OSHA-10 and/or OSHA-30 certified.

PERFORMANCE BOND AFFIDAVIT

Unless Bidder submits, with its bid, a Bid and Contract Bond per ORC. 153.571, Canton may request that the Bidder obtain, from its insurance representative, a performance bond affidavit that contains the representations noted below. The affidavit shall be made on the insurance agency's letterhead, reference this project by name and state at least the following:

- (1) The representative certifies that, should the contract be awarded to the contractor on whose behalf the certificate is being provided, the performance bond specified will be provided.
- (2) The name and A.M. Best Company ratings of companies which are expected to provide the required performance bond.

THE PERFORMANCE BOND AFFIDAVIT SHALL BE NOTARIZED.

AFFIDAVIT

Now comes _____, the duly
authorized representative of _____,
(name of company)

A bidder in City Project
(name of project)

And hereby desposes and states under oath that the
(name of bidder's

_____ shall employ all local labor for all work to be performed on
company)

City Project

In the event said biddr is awarded the contract for said Project.

Authorized Signature of Company

Sworn to and subscribed before me this _____ day of _____,
20_____.

Name of Notary Public

My Commission Expires:

CERTIFICATION

I, _____
(Name of person signing affidavit) (Title)

do hereby certify that _____ does not have an
(Company or Individual Name)

outstanding unresolved finding for recovery issued by the Auditor of the
State of Ohio as defined by Ohio Revised Code (ORC) Section 9.24 as of

(Current date)

Signature of Officer or Agent

Name (Print)

Sworn to and subscribed in my presence this _____ day of
_____, 20 _____

(Notary Public)

WEEKLY PAYROLLS

Each week as work progresses the Contractor must submit to the Owner a copy of all weekly payrolls and required attachments stipulated therein.

All weekly payrolls shall contain or have attached the following:

- A) Name of each employee. Also show address when employee is first entered on payrolls and whenever his address changes thereafter.
- B) Classification of employees (same as shown on wage determination or provisional approval).
- C) Rate of pay not less than that shown on the wage determination.
- D) Hours worked each day and total for each week for each employee.
- E) All deductions made.
- F) Net amount paid employee.
- G) The following certification:

"I certify that the payroll is correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the Wage Determination decision of the Department of Industrial Relations, Prevailing Wage Rate Division, State of Ohio, and that the classifications set forth for each laborer or mechanic conform with the work he performs".

(SIGNATURE)

(TITLE)

APPENDIX

C

Project Utility Note

It is the sole responsibility of the contractor to coordinate and insure the relocation of modifications to all utilities. The City is not responsible for any cost associated with the non-timely relocation or delays caused by utility work or the cost of the relocation work itself. The contractor must OUPS the location as according to OUPS procedures.

Utility Note
STA-12th Street/STA-153-0.00
PID #85299
City of Canton
Sale Date: June 2014

Project Utility Note: There may be subsurface and aerial utility conflicts with this project. The Contractor will coordinate with the utility to mitigate the conflict. There are known utility relocations needed. The contractor shall maintain all of their utility work around any existing lines and take the necessary actions to secure and protect utility facilities during the construction of this project. Bidders are advised that the following utility facilities may not be cleared from the construction area at the time of the award of the contract. These utilities shall remain in place or be located within the construction limits of the project as set below.

All station locations listed below are approximate unless otherwise stated.

Electric Utilities –All precautions must be utilized to avoid contact with the overhead lines. Contractor is responsible to secure the lines during construction if needed.

- a) The following aerial relocation work is complex and must be performed in a certain order. One company's time schedule will depend on the other companies performing theirs. Therefore, the number of working days for a company to perform their work may not be consecutive. The aerial relocation work will be performed in the following descending order.
 - Set new poles – American Electric Power (AEP)
 - AEP will begin their transfer work
 - Time Warner Cable
 - AT&T
 - Once AT&T has completed their work, either the last occupant of the pole or the pole owner will remove the existing poles.
- b) As of April 1, 2014, AEP has set all of their new poles, excluding Market Avenue, and commenced with the aerial relocation work. AEP's aerial relocation is complete between Fulton and Cherry. One new AEP pole near Station 533+75, 26' right, may need to be relocated again to clear the proposed Wheeling & Lake Erie Railway Flasher and Gate. All AEP aerial relocation work will likely be completed by May 16, 2014. Between Monument and Fulton, the City's highway contractor will coordinate his removal of the steel street light poles and bases with AEP, steel pole to be delivered by the contractor to AEP.

AEP: underground power line relocation at Cleveland Avenue (481+10, Lt. to 486+05, Lt.). The company has aerial power lines which will be relocated underground at the Cleveland Avenue intersection. The City's highway contractor will install the underground conduit as described in the construction plans and coordinate this work with AEP.

The overhead conductors within the limits of this project will remain energized for the duration of the project. Caution must be exercised by the City's highway contractor to insure that OSHA safety standards are observed. AEP will be responsible for contacting all occupants of their poles as to when they may perform their relocation work. The City's highway contractor will work in cooperation with AEP during

their relocation work.

Cable Utilities – Contractor is responsible to secure the lines during construction if needed.

Time Warner Cable: aerial cable TV lines

The company has aerial CATV lines on both sides throughout the project limits that will need to be relocated. The company will begin relocating its facilities immediately upon notification from AEP to proceed. The company will take no more than 27 working days or one month to perform their relocation work.

Time Warner Cable: underground CATV relocation at Cleveland Avenue (481+10, Lt. to 486+05, Lt.).

The company has aerial CATV lines which will be relocated underground at the Cleveland Avenue intersection. The City's highway contractor will install the underground conduit as described in the construction plans and coordinate this work with Time Warner Cable.

Telephone Utilities – Contractor is responsible to secure the lines during construction if needed.

AT&T: aerial telecommunications lines

The company has aerial lines throughout the project limits that will need to be relocated. The company will begin relocating its facilities immediately upon notification from AEP/Time Warner Cable to proceed. The company will take no more than 65 working days or 3 months to perform their relocation work.

Natural Gas Utilities – Contractor is responsible to secure the lines during construction if needed.

Dominion East Ohio (DEO): Bidders are advised that not all of Dominion East Ohio (DEO) facilities will be cleared from the construction area at the time of award of the contract. DEO facilities shall remain in place or be relocated/replaced within the construction limits of the project as set out below. All station locations listed below are approximate.

Dominion East Ohio Gas 12th Street Relocation Plans (PIR 1384) are available for review at the City Engineering Office – 2436 30th St. N.E., Canton, Ohio 44709.

Dominion East Ohio Gas: *various size low and intermediate pressure gas lines.*

DEO has various size low and intermediate pressure gas lines along both sides of the streets throughout the project limits that may need relocated or replaced. There are numerous trees, stumps, sign posts, buildings, etc. that are shown to be removed/demolished on the plans. Many of these will need to be removed/demolished before DEO relocation work can be completed. Including but not limited to trees on the north side of 12th St. from Sta. 445+55 to Sta. 455+30, sign on the south side of 12th St. at Sta. 501+75, trees on the south side of 12th St. from Sta. 516+25 to Sta. 516+60, tree on west side of Market Ave. at Sta. 153+20 and building #1124 (Kempthorn showroom) on east side of Market Ave. DEO and/or its contractor will not be liable for blocking or backfilling of vaults, if encountered during construction.

All hard surface **within** City of Canton project limits will be restored as follows:

- Sidewalks will be backfilled with LSM and topped with 2" of concrete.
- Drive aprons will be backfilled with LSM and topped with 4" of concrete.

- Road openings will be backfilled with LSM, 5” of concrete base, visqueen barrier and topped with 3” concrete cap.

All hard surface **outside** of City of Canton project limits will be restored to final City of Canton standards.

All soft surface restoration will be restored with top soil, seed and straw.

All work west of 12th Street will be suspended and all work area’s cleaned up August 1-3 due to Pro Football Hall of Fame Parade.

DEO and/or it’s contractor will coordinate boring installation with the City of Canton in any area practical, to minimize disturbance.

DEO relocation work for the gas lines will be as follows:

PHASE 1 -SOUTH SIDE OF 12TH ST.

- Install a new 4” plastic gas line crossover to the north side of 12th St. at Sta. 448+46.
- Begin installation of new 6” plastic gas line at Sta. 451+14, 14’ Rt. continue east along 12th St. reconnect to existing gas line at Sta. 455+59, 14’ Rt.
- Install a new 4” plastic gas line crossover to the north side of 12th St. at Sta. 458+88.
- Install a new 4” plastic gas line crossover to the north side of 12th St. at Sta. 464+61.
- Begin installation of new 6” plastic gas line at Sta. 469+61, 20’ Rt. continue east along 12th St. reconnect to existing gas line at Sta. 474+55, 21’ Rt.
- Install a new 4” plastic gas line crossover to the north side of 12th St. at Sta. 469+94.
- Install a new 4” plastic gas line crossover to the north side of 12th St. at Sta. 474+06.
- Begin installation of new 4” plastic gas line at Sta. 487+57, 28’ Rt. continue east along 12th St. reconnect to existing gas line at Sta. 491+12, 29’ Rt.
- Begin installation of new 2” plastic gas line at Sta. 492+60, 26’ Rt. continue east along 12th St. reconnect to existing gas line at Sta. 493+11, 26’ Rt.
- Begin installation of new 8” plastic gas line at Sta. 501+19, 23’ Rt. continue east along 12th St. reconnect to existing gas line at Sta. 517+93, 23’ Rt.
- Begin installation of new 8” plastic gas line at Sta. 531+26, 22’ Rt. continue east along 12th St. to crossover at Sta. 532+40, 28’ Rt.
- Begin installation of new 4” plastic gas line at Sta. 537+58, 19’ Rt. continue east along 12th St. reconnect to existing gas line at Sta. 538+04, 19’ Rt.
- Begin installation of new 4” plastic gas line at Sta. 540+13, 29’ Rt. continue east along 12th St. proposed R/W to Sta. 540+80, 92’ Rt. Cross over The O’Jays Parkway NE to Sta. 248+50, 25’ Rt. continue northeast along proposed R/W and reconnect to existing gas line at Sta. 542+93, 21’ Rt.

- Begin installation of new 4" plastic gas line at Sta. 545+91, 24' Rt. continue east along 12th St. reconnect to existing gas line at Sta. 546+11, 24' Rt.
- The Company will have numerous new service lines to install.
- All residual steel gas lines shall be abandoned in place.

PHASE 2 - NORTH SIDE OF 12TH ST.

- Begin installation of new 4" plastic gas line at Sta. 445+40, 25' Lt. continue east along 12th St. to approximately Sta. 451+08, 28' Lt. where line increases to a 6" plastic gas line. Continue east along 12th St. to Sta. 470+58, 27' Lt. and cross to the south side of 12th St.
- Begin installation of new 6" plastic gas line at Sta. 477+48, 22' Lt. continue east along 12th St. reconnect to existing gas line at Sta. 478+06, 20' Lt.
- Begin installation of new 6" plastic gas line at Sta. 481+47, 28' Lt. continue east along 12th St. reconnect to existing gas line at Sta. 481+63, 25' Lt.
- Begin installation of new 6" plastic gas line at Sta. 482+32, 20' Lt. continue east along 12th St. and reconnect to existing gas line at Sta. 493+39, 30' Lt.
- Begin installation of new 4" plastic gas line at Sta. 500+25, 28' Lt. continue east along 12th St. to approximately Sta. 518+73, 15' Lt. where line increases to a 6" plastic gas line. Continue east along 12th St. to approximately Sta. 522+50, 25' Lt. where line increases to a 8" plastic gas line. Continue east along 12th St. to approximately Sta. 525+61, 25' Lt. where line decreases to a 4" plastic gas line. Continue east along 12th St. to approximately Sta. 532+31, 28' Lt. where line increases to a 6" plastic gas line. Continue east along 12th St. and reconnect to existing gas line at Sta. 533+80, 23' Lt.
- Install a new 4" plastic gas line crossover to the south side of 12th St. at Sta. 509+16.
- Begin installation of new 6" plastic gas line at Sta. 537+58, 23' Lt. continue east along 12th St. and reconnect to existing gas line at Sta. 537+98, 23' Lt.
- Install a new 8" plastic gas line crossover to the south side of 12th St. at Sta. 532+40.
- Begin installation of new 6" plastic gas line at Sta. 541+11, 23' Lt. continue east along 12th St. reconnect to existing gas line at Sta. 542+65, 23' Lt.
- Install a new 6" plastic gas line crossover to the south side of 12th St. at Sta. 542+62.
- The Company will have numerous new service lines to install.
- All residual steel gas lines shall be abandoned in place.

WEST SIDE OF MARKET AVE. N

- Begin installation of new 8” plastic gas line at Sta. 143+57, 27’ Lt. continue north along Market Ave. N and reconnect to existing gas line at Sta. 149+22, 23’ Lt.
- Install a new 6” plastic gas line crossover to the east side of Market Ave. N at Sta. 144+68.
- Begin installation of new 4” plastic gas line at Sta. 150+26, 38’ Lt. continue north along Market Ave. N and reconnect to existing gas line at Sta. 156+34, 30’ Lt.
- The Company will have numerous new service lines to install.
- All residual steel gas lines shall be abandoned in place.

EAST SIDE OF MARKET AVE. N

- Begin installation of new 6” plastic gas line at Sta. 143+20, 27’ Rt. continue north along Market Ave. N and reconnect to existing gas line at Sta. 148+68, 28’ Rt.
- Building #1124 Market Ave. N needs demolished for the above installation.
- Begin installation of new 8” plastic gas line at Sta. 153+71, 27’ Rt. continue north along Market Ave. N and reconnect to existing gas line at Sta. 156+53, 28’ Rt.
- The Company will have numerous new service lines to install.
- All residual steel gas lines shall be abandoned in place.

The Company does not anticipate any conflicts with proposed work. If a conflict does arise, the City’s Highway Contractor will immediately contact the company and City Project Engineer so the proper actions can be taken to prevent delay of construction. The Company shall take no more than **150 working days** to complete relocation work. The City’s Highway Contractor shall use caution when digging near the Company’s facilities including but not limited to test boxes, curb stops, gate valve boxes, mainline and services. Costs incurred by damages to the Company’s facilities could be billed to damaging party.

City-Owned Utilities

Canton City Water- Contractor is responsible to secure the lines during construction if needed.

Canton Water Department (CWD): various size water lines and appurtenances

The Department does have water lines throughout the project limits that may conflict with proposed construction. The Department will contract with the City’s highway contractor for all waterline relocation work as denoted on the construction plans. The City's highway contractor will immediately contact the CWD with any questions so the proper action may be taken to prevent any delay in the construction of the project.

Canton City Sanitary Sewer- Contractor is responsible to secure the lines during construction if needed. Reconstruct/Adjust to Grade Manholes as specified in the plans.

City of Canton Sewer Collection System Department: sanitary sewer lines
The City's existing facilities located within and throughout the project limits have been identified on the highway plans. If any conflicts do arise, the City of Canton Engineer must be contacted immediately so the proper action may be taken to prevent delay of construction.

Canton City Storm Sewer- Contractor is responsible to secure the lines during construction if needed. Reconstruct/Adjust to Grade Manholes and Replace Conduit as specified in the plans.

Railroads

Two railroads grade crossings intersect with the 12th St. project. Contractor must conduct and coordinate all work within the railroads' right-of-way so as not to impede or adversely affect the railroad facilities or rail service. Work within the railroad right-of-way must conform with the construction plans and railroad agreements as listed below and found in Appendix I of the 12th St. Contract and Specification.

- Wheeling and Lake Erie Railway Company, Agmt. 2014-20, dated March 25, 2014
- Metro Regional Transit Authority, Agmt. 2014-19, dated March 26, 2014

* * * General Comments * * *

See plans for additional details.

The contractor must exercise caution when working in proximity to the existing and/or relocated utility facilities.

Call Ohio Utility Protection Service 48 hours before you dig – 1-800-362-2764.

APPENDIX

D

CHANGE ORDER POLICY

Canton Engineering Change Order Policy

The need for a Change Order for work or materials not included in the scope of the contract or exceeding plan quantities may occur at any time during the contract. The LPA Construction Manager or the LPA Contractor may initiate the Change Order process. The LPA Project Inspector will document the date that the change is first encountered. The LPA Construction Manger will determine if a change in the contract is needed. (Note: LPA Project Inspector may be a Consultant Construction Contract Administrator or the Canton Project Inspector assigned to the project.) The project record shall include record of all changes.

Change Orders will be categorized into the following Tiers:

Tier 1:

A quantity adjustment for projects less than \$500,000.00 cannot exceed \$25,000.00 to qualify as a Tier 1 Change Order. A quantity adjustment for projects greater than \$500,000.00 cannot exceed the lesser of 5% or \$100,000.00 to qualify as a Tier 1 Change Order. The change of the quantities will be adjusted on a Change Order that will address these changes after an accumulation of adjustments for the project is received. Requests for adjustment may occur at any time before the final payment is made.

Tier 2:

Changes that cannot be addressed using contract unit prices, exceed the Tier 1 limits, extend the contract limits, or change the environmental impact will be presented formally on a Change Order. Contractor shall submit an estimated cost and scope of the work to be performed to the LPA Project Manager. The LPA Project Manager will assemble the documentation, including purpose and analysis of the cost of the proposed change for submission to the LPA Construction Manager. LPA Construction Manager shall review the submitted documentation for availability of funds, acceptability of costs and need for the said changes. Further, the LPA Construction Manager will secure concurrence from ODOT Construction Monitor and make recommendation to the Canton City Engineer for acceptance.

The Change Order will then be recommended to the Board of Control for approval. If the sum of all Change Orders exceeds the lesser of \$100,000.00 or 10% of the total of the original contract cost, the Change Order will be presented to the Canton City Council for approval before being submitted to the Board of Control.

Execution of the work will not be performed until authorization is given to the contractor from the LPA. In the event that an agreed price cannot be negotiated, LPA will adhere to force account procedures.

Authorization of Change Order Work:

Tier 1:

The Canton City Engineering will authorize the work prior to submission of the Change Order. Contractor cannot proceed until such authorization.

Tier 2:

The contractor must receive written authorization, from the Canton City Engineer, before the execution of any of the Change Order work. This authorization will not be given until the Change Order has been approved by the Board of Control, Canton City Council, and ODOT, as needed. The Canton City Engineer may override Tier 2 Authorization procedure for any circumstances to assure safety, environment, or protection of property.

NOTE: Canton City Council must approve all Change Orders prior to authorization for both Tier 1 and Tier 2 should the individual or aggregate cost of all Change Orders exceed the lesser of 100,000.00 or 10% of the project original cost.

APPENDIX

E

CLAIMS MANAGEMENT POLICY

City of Canton Engineering Department's Claims Management Policy

The City of Canton recognizes the need to contend with claims experienced by the contractor that are not addressed by the contract. This policy acts as directive to provide stability and expertise in the management of its claims and to ensure they are investigated, evaluated, and resolved in a timely and professional manner.

Claims

A dispute is not identified as a claim until a *Notice of Intent to File a Claim*. The *Notice of Intent to File a Claim* cannot be made until Steps 1 and 2 are completed. A claim is defined as formal assertion by the contractor for something due or believed to be due to the contractor. This claim may include monetary compensation and/or time extension for the completion of the contract. All claims must be presented by the Prime Contractor. Claims submitted by a sub-contractor or supplier against the City or Prime Contractor shall not be accepted.

Purpose

This policy attempts to resolve disputes in a fair and cost-effective manner. The documentation resulting from this procedure will provide information needed to make a reasonable and un-biased decision. City of Canton Engineering acknowledges that costs can be kept to a minimum when the resolution is found at the departmental level.

Process

The Contractor must follow this policy to be eligible for any compensation (time or monetary) for any and all claims not covered by the Change Order Policy. All steps in the policy must be completed prior to moving to the next step. The Contractor shall continue with all Work, including that which is in dispute. The City will continue to pay for work being performed.

Prior to entering into the formal claim resolution process, both the contractor superintendent and the City's Inspector and Construction Manager agree to attempt to resolve any disputes in a good faith effort that is fair and equitable to both the contractor and the City within the guidelines and requirements established by the contract. If this good faith effort does not resolve the problem, the contractor may proceed into the Claims Management Procedure.

Step 1 City Project Manager

The City Project Manager shall meet with the Contractor's superintendent and City Construction Inspector within two (2) working days of receipt of the Contractor Written Early Notice set forth in 104.02.G of the ODOT Construction and Material Specifications. The City Project Manager will negotiate in an effort to reach a resolution according to the Contract Documents. The City Project Manager will issue a written decision of Step 1 within fourteen (14) calendar days of the meeting. If the dispute is not resolved, the Contractor must either abandon or escalate the dispute to Step 2. The claim along with all pertinent information and contract provisions shall be presented to the City Project Manager by the contractor and City representatives.

Step 2 City Engineer

Within seven (7) calendar days of receipt of the Step 1 decision, the Contractor must submit a written request for a Step 2 meeting to the City Engineer. The City Engineer will assign the dispute a dispute number. Within fourteen (14) calendar days of receipt of the request for a Step 2 meeting, the Contractor shall submit the Dispute Documentation as follows:

1. The Contractor shall submit three (3) complete copies of the documentation of the dispute to the City Engineer.
2. The Dispute Documentation shall be identified on a cover page by G.P. 1098 , Contractor name, subcontractor or supplier if involved in the dispute, and dispute number.
3. The Dispute Documentation shall be an original document that clearly and in detail gives the required information for each item of additional compensation and time extension requested.
4. A narrative of the disputed work or project circumstance at issue. This section must include the dates of the disputed work and the date of early notice.
5. References to the applicable provisions of the plans, specifications, proposal, or other contract documents. Copies of the cited provisions shall be included in the Dispute Documentation.
6. The dollar amount of additional compensation and length of contract time extension being requested.
7. The cost and supporting documents that served as the basis for the requested compensation stated in number six (6) above.
8. A detailed schedule analysis must be included in the Dispute Documentation for any dispute concerning additional contract time, actual or constructive acceleration, or delay damages. At a minimum, the schedule analysis must include the Schedule Update immediately preceding the occurrence of the circumstance alleged to have caused delay and must comply with accepted industry practices. Failure to submit the required schedule analysis will result in the denial of that portion of the Contractor's request.
9. Copies of relevant correspondence and other pertinent documents.

The City Engineer shall review and recommend a resolution to the claim. If recommended by the City Engineer, the process will cease and the claim will be processed as a Change Order. Otherwise, the City Engineer will meet with the

contractor's representative, the City Project and Construction Managers within fourteen (14) days to hear each party's stance and as a last chance opportunity to resolve the claim before escalating to Step 3. The City Engineer will issue a written determination of Step 2 to the contractor and project file within fourteen (14) days. If the dispute is not resolved, the Contractor must either abandon or escalate the dispute to Step 3.

Step 3 Canton Service Director

Within fourteen (14) calendar days of receipt of the Step 2 decision, the Contractor must submit a written *Notice of Intent to File a Claim* to the Canton City Service Director. This notice shall state the Contractor's request for a Canton Service Director hearing on the claim. The dispute becomes a claim when the Service Director receives the *Notice of Intent to File a Claim*. The City of Canton Law and Purchasing Departments will provide advice to the Canton Service Director. The Canton Service Director will be responsible for deciding claims.

The Contractor shall submit six (6) complete copies of its Claim Documentation to the City Engineer within thirty (30) calendar days of receipt of the *Notice of Intent to File a Claim*. This time frame may be extended upon mutual agreement of the parties and with approval of the Committee. In addition to the documentation submitted at Step 2, the narrative shall be enhanced to include sufficient description and information to enable understanding by a third party who has no knowledge of the dispute or familiarity with the project. This documentation must also include a discussion of the efforts taken to resolve the dispute. When submitting the Claim Documentation, the Contractor must certify the claim in writing. Such certification shall attest to the following:

1. The claim is made in good faith.
2. To the best of the Contractor's knowledge, all data offered to support the claim is accurate and complete.
3. The claim amount accurately reflects the Contractor's actual incurred costs and additional time impacts.

This claim certification shall also be notarized pursuant to the laws of the State of Ohio. The following is an example of the correct form for a claim certification:

(The Contractor) certifies that this claim is made in good faith, that all supporting data is accurate and complete to the best of (the Contractor's) knowledge and belief, and that the claim amount accurately reflects the contract amendment for which (the Contractor) believes the City of Canton is liable.

By: _____
(The Contractor, Name and Title)
Date of Execution: _____

Within thirty (30) calendar days of receipt of the Contractor's Claim Documentation, the City Engineer shall submit six (6) complete copies of its Claim Documentation to the Canton Service Director. In the event that the Contractor is granted a time extension for

the submission of its Claim Documentation, the City Engineer will be granted an equal time extension for submission of its Claim Documentation. At a minimum, the City Engineer's Claim Documentation must include:

1. A narrative of the disputed work or project circumstance at issue with sufficient description and information to enable understanding by a third party who has no knowledge of the dispute or familiarity with the project. This section must include the dates of the disputed work and the date of early notice. The narrative must also discuss the prior efforts taken to resolve the dispute.
2. References to the applicable provisions of the plans, specifications, proposal, or other contract documents. Copies of the cited provisions shall be included in the claim document.
3. Response to each argument set forth by the Contractor.
4. Any counter-claims, accompanied by supporting documentation, the Canton Service Director Claims Committee wishes to assert.
5. Copies of relevant correspondence and other pertinent documents.

Within fourteen (14) calendar days of receipt of the Construction Manager's Claim Documentation, the City Engineer will forward one (1) complete copy to the Contractor and will schedule a hearing on the dispute. Once a hearing date has been established, both the Contractor and Construction Manager shall provide the Canton City Engineer with the list of names and telephone numbers of each person who may present information at the hearing. Reasonable time, generally not to exceed 60 days, will be provided for submission and review of additional documentation by either party prior to the hearing date. However, unless otherwise permitted by the Committee, the exchange of documentation and all disclosures specified in this step of the process shall be completed at least fourteen (14) calendar days prior to the hearing. Upon request or at the Committee's discretion, the Committee may delay the hearing one (1) time to allow more time for review and requests for more documentation. In the event of multiple claims, the Committee may order that they be considered in a single hearing. The Committee may hold this hearing after the completion of the project or until such time that it is assured that all disputes on the project have been processed through Steps 1 and 2. The Contractor and Construction Manager will each be allowed adequate time to present their respective positions before the Committee. The Contractor and Construction Manager will also each be allowed adequate time for one (1) rebuttal limited to the scope of the opposing party's presentation. The Contractor's position will be presented by a Contractor's representative who is thoroughly knowledgeable of the claim. Similarly, the Construction Manager's position will be presented by the Construction Manager or a representative who is thoroughly knowledgeable of the claim. Each party may have others assist in the presentation. The Committee may, on its own initiative, request information of the Contractor in addition to that submitted for the hearing. If the Contractor fails to reasonably comply with such request, the Committee may render its decision without such information. Upon completion of the hearing and consideration of any additional information submitted upon request, the Committee will submit a written recommendation on the disposition of the claim to the Canton Service Director. The Canton Service Director will ratify, modify, or reject the recommendation of the Committee and render its decision within sixty (60) calendar

days of the hearing. Within thirty (30) calendar days of receipt of the Committee's decision, the Contractor must either accept or reject the decision in writing. In the event the Contractor fails to do so, the Committee may revoke any offers of settlement contained in the decision. The decision of the Committee is the final step of Canton Engineering Department Dispute Resolution Process and may not be appealed within the Department. The Committee is not bound by any offers of settlement or findings of entitlement made during Steps 1 and 2 of the Dispute Resolution Process.

APPENDIX

F

Environmental Commitments

Environmental Commitments

Ohio Department of Transportation Requirements

ENVIRONMENTAL SITE ASSESSMENT COMMITMENTS

ENVIRONMENTAL STUDIES HAVE SHOWN THAT THERE IS THE POTENTIAL FOR ENCOUNTERING PETROLEUM CONTAMINATED MATERIAL AT THE FOLLOWING LOCATIONS:

MONROE MUFFLER – 1205 MARKET AVENUE NORTH

RITE AID PHARMACY – 114 12TH STREET NW

BP STATION – 1200 MARKET AVENUE NORTH

AP GAS STATION – 903 12TH STREET NE

IN THE EVENT PETROLEUM CONTAMINATED SOILS ARE ENCOUNTERED, THE CONTRACTOR SHALL MANAGE THIS MATERIAL ACCORDING TO THE FOLLOWING NOTES. THE ESTIMATED EXCAVATIONS SHALL BE PAID FOR UNDER THE ORIGINAL PLAN BID ITEMS.

ALL MATERIALS EXCAVATED BY THE CONTRACTOR IN THESE AREAS MAY BE STOCKPILED IN AN AREA PROVIDED BY THE CONTRACTOR AND APPROVED BY THE ENGINEER. THE ENGINEER MAY PERMIT TEMPORARY STORAGE OF THE EXCAVATED MATERIAL IN A LINED AND COVERED ROLL OFF BOX. THE ENGINEER MAY PERMIT TEMPORARY STORAGE OF THE EXCAVATED MATERIAL ON AN IMPERMEABLE MEMBRANE. THE MEMBRANE SHALL BE SURROUNDED BY BALES OF STRAW TO PREVENT THE SUSPECTED SOILS FROM COMING IN CONTACT WITH PRECIPITATION AND/OR SURFACE RUNOFF. THE ENGINEER MAY PERMIT THE CONTRACTOR TO DIRECT LOAD THE EXCAVATED CONTAMINATED SOIL INTO TRUCKS.

THE MATERIAL SHALL BE PROPERLY TESTED, TRANSPORTED, AND DISPOSED OF IN A LICENSED (BY THE LOCAL HEALTH DEPARTMENT) AND PERMITTED (BY THE OHIO ENVIRONMENTAL PROTECTION AGENCY) SOLID WASTE FACILITY.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS TO TRANSPORT THE MATERIALS TO A LICENSED AND PERMITTED SOLID WASTE DISPOSAL FACILITY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONDUCTING ANY ADDITIONAL SAMPLING AND ANALYSIS OF THIS MATERIAL.

THE CONTRACTOR SHALL FURNISH ALL THE LABOR, EQUIPMENT, AND MATERIALS NECESSARY TO PROPERLY HANDLE, STORE (IF NECESSARY), TEST FOR DISPOSAL, AND DISPOSE OF REGULATED MATERIALS, INCLUDING ANY REQUIRED PERMITS, APPROVALS, OR FEES WITHIN THE LIMITS IDENTIFIED ABOVE. PAYMENT FOR SUCH WORK SHALL BE MADE AT THE CONTRACT PRICE PER TON.

THE FOLLOWING ESTIMATED QUANTITY HAS BEEN INCLUDED IN THE GENERAL SUMMARY FOR THE WORK NOTE ABOVE:

ITEM 690 SPECIAL – WORK INVOLVING PETROLEUM CONTAMINATED SOIL 5 TON.

PHASE II ENVIRONMENTAL SITE ASSESSMENTS HAVE BEEN COMPLETED FOR THE FOLLOWING PARCELS AND ARE AVAILABLE FOR REVIEW AT THE CANTON CITY ENGINEER’S OFFICE:

- KANAM'S LOUNGE - 1133 FULTON ROAD N.W.
- CIRCLE K STATION - 1212 12TH STREET N.W.
- T&L PEST CONTROL - 700 12TH STREET N.W.
- YOUR PIZZA SHOP - 420 12TH STREET N.W.
- C&W AUTOMOTIVE - 612 12TH STREET N.E.
- FAMILY DOLLAR STORE - 1207 12TH STREET N.W.
- SHORB DRIVE-THRU - 829 12TH STREET N.W.
- MCDONALD PLUMBING AND HEATING - 11011 12TH STREET N.E

IDENTIFIED SECTION 4(F) PROPERTIES COMMITMENTS

AREAS DISTURBED BY CONSTRUCTION WILL BE RESTORED AND SEEDED TO MATCH PRE-CONSTRUCTION CONDITIONS.

ACCESS WILL BE MAINTAINED TO BOTH THE NIMISILLA PARK AND COOK PARK ENTRANCES ON 12TH STREET/MAHONING AVENUE, INCLUDING THEIR ASSOCIATED RECREATIONAL FACILITIES, DURING CONSTRUCTION.

ANY TREES/SHRUBS THAT NEED TO BE REMOVED WILL BE REPLACED TO AN AREA WITHIN THE PARK BOUNDARIES AS DETERMINED BY THE CITY OF CANTON PARKS DEPARTMENT. IN NIMISILLA PARK, THREE TREES WILL BE REMOVED WITH SEVEN NEW TREES PLANTED TO REPLACE THEM. IN COOK PARK, NO TREES WILL BE REMOVED AND NINE NEW TREES WILL BE PLANTED.

THE LOCATIONS OF THE SIXTEEN TREES TO BE PLANTED WILL BE DETERMINED BY THE CITY OF CANTON PARKS DEPARTMENT. EIGHT TREES WILL BE THE SPECIFIED MAPLES AND EIGHT TREES WILL BE THE SPECIFIED SCHUBERT CHERRY. THE FOLLOWING QUANTITIES HAVE BEEN INCLUDED IN THE GENERAL SUMMARY FOR THE WORK NOTED ABOVE:

- DECIDUOUS TREE, 2” CALIPER (SUN VALLEY MAPLE) 8 EACH
- DECIDUOUS TREE, 2” CALIPER (SCHUBERT CHERRY) 8 EACH

THE EXISTING PARK SIGNAGE, INCLUDING ASSOCIATED UTILITIES, WILL BE RELOCATED TO AN AREA WITHIN PARK BOUNDARIES DETERMINED BY THE CITY OF CANTON PARKS DEPARTMENT.

PERMITS, STORM WATER PERMITS COMMITMENTS

A NOTICE OF INTENT WILL BE SUBMITTED TO THE OHIO EPA FOR COVERAGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER CONSTRUCTION GENERAL PERMIT BECAUSE THE PROJECT WILL DISTURB GREATER THAN 1 ACRE OF EARTHEN AREA.

PERMITS, FLOODPLAINS COMMITMENTS

ALL IDENTIFIED LOCALLY ENFORCED FLOOD DAMAGE REDUCTION STANDARDS AND FLOOD PLAIN MANAGEMENT PROGRAM REQUIREMENTS SHALL BE SATISFIED PRIOR TO CONSTRUCTION OF THE PROJECT.

Environmental Commitments

Ohio Environmental Protection Agency Regional Requirements

ASBESTOS NOTIFICATION

ASBESTOS SURVEYS OF THE BUILDINGS IN THE FOLLOWING LOCATIONS SCHEDULED FOR DEMOLITION WERE CONDUCTED BY A CERTIFIED ASBESTOS HAZARD EVALUATION SPECIALIST.

1124 MARKET AVENUE N (PARCEL 236 WD)
828 12TH STREET NW (PARCEL 73 WD)
219 12TH STREET NE (PARCEL 122 WD)

THE SURVEY DOCUMENTS ARE PROVIDED IN THE APPENDICES OF THE CONTRACT AND SPECIFICATION BOOK (BID BOOK). THE REMOVAL AND DISPOSAL OF THE ASBESTOS CONTAINING MATERIAL MUST COMPLY WITH THE OHIO ADMINISTRATIVE CODE, THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATIVE (OSHA) REGULATIONS AND THE NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR POLLUTANTS (NESHAP) STANDARD FOR ASBESTOS. ASBESTOS REMOVAL, ABATEMENT AND DISPOSAL COSTS SHALL BE INCLUDED IN THE UNIT PRICE BID FOR ITEM 202 – BUILDING DEMOLISHED, (BY PARCEL, BUILDING), AS PER PLAN FOR EACH BUILDING IDENTIFIED FOR DEMOLITION.

THE CONTRACTOR SHALL PROVIDE AN INDIVIDUAL TRAINED IN THE PROVISIONS OF THE NESHAP ON SITE TO DIRECT THE REMOVAL OF THE ASBESTOS CONTAINING MATERIAL.

A COPY OF THE OHIO ENVIRONMENTAL PROTECTION AGENCY (OEPA) NOTIFICATION OF DEMOLITION AND RENOVATION FORM, PARTIALLY COMPLETED FOR EACH BUILDING, WILL BE PROVIDED TO THE SUCCESSFUL BIDDER. THE CONTRACTOR SHALL COMPLETE THE OEPA NOTIFICATION OF DEMOLITION AND RENOVATION FORMS AND SUBMIT THEM TO:

OHIO ENVIRONMENTAL PROTECTION AGENCY
NORTHEAST OHIO DISTRICT OFFICE
2110 E. AURORA ROAD
TWINSBURG, OHIO
ATTN: BOB PRINCIC
(330) 963-1230

THE CONTRACTOR SHALL SUBMIT THE FORM AT LEAST TEN (10) WORKING DAYS PRIOR TO THE START OF THE DEMOLITION OF THE BUILDING WHETHER ASBESTOS IS PRESENT IN THE BUILDING OR NOT. THE CONTRACTOR SHALL PROVIDE A COPY OF THE COMPLETED FORM TO THE ENGINEER.

INFORMATION REQUIRED ON THE FORM WILL INCLUDE:

THE NAME, ADDRESS, TELEPHONE/FAX NUMBERS AND CONTACT PERSON OF THE DEMOLITION/GENERAL CONTRACTOR.

THE NAME, ADDRESS, TELEPHONE/FAX NUMBERS AND CONTACT PERSON OF THE ASBESTOS REMOVAL CONTRACTOR.

THE SCHEDULE DATES FOR THE START AND COMPLETION OF THE BRIDGE REMOVAL OR RENOVATION/REHABILITATION.

THE DATE(S) AND HOURS OF OPERATION FOR THE ASBESTOS REMOVAL.

A DESCRIPTION OF THE PLANNED DEMOLITION OR RENOVATION/REHABILITATION WORK AND THE METHOD(S) USED.

A DESCRIPTION OF THE WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS OF ASBESTOS AT THE SITE.

THE NAME(S), ADDRESS(ES), TELEPHONE/FAX NUMBERS AND CONTACT PERSON(S) OF THE WASTE TRANSPORTER(S) TO BE USED.

THE NAME, ADDRESS, TELEPHONE/FAX NUMBERS AND CONTACT PERSON OF THE WASTE DISPOSAL FACILITY TO BE USED.

A DESCRIPTION OF THE PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLED, PULVERIZED OR REDUCED TO POWDER.

A COPY OF THE OEPA FORM IS AVAILABLE FOR INSPECTION AT THE CANTON CITY ENGINEERING DEPARTMENT OFFICE, CITY SERVICE CENTER, BUILDING A, 2436 30TH STREET NE, CANTON, OH 44705.

BASIS OF PAYMENT

THE CONTRACTOR SHALL FURNISH ALL FEES, LABOR, AND MATERIALS NECESSARY TO COORDINATE THE SUBMITTAL THE OEPA NOTIFICATION FORM. PAYMENT FOR THIS WORK SHALL BE INCLUDED IN THE CONTRACT LUMP SUM ITEM 202 – BUILDING DEMOLISHED, (BY PARCEL, BUILDING), AS PER PLAN.

ITEM 202 – BUILDING DEMOLISHED, (BY PARCEL, BUILDING), AS PER PLAN

IN ADDITION TO THE REQUIREMENTS OF SECTION 202 OF THE CMS THE FOLLOWING SHALL BE INCLUDED:

ASBESTOS MATERIAL AS NOTED IN THE ASBESTOS NOTIFICATION SHALL BE REMOVED PRIOR TO DEMOLITION. ALL COSTS FOR THE ASBESTOS REMOVAL, ABATEMENT AND DISPOSAL SHALL BE CONSIDERED INCIDENTAL AND INCLUDED IN THE UNIT PRICE BID FOR THIS ITEM.

THE CONTRACTOR SHALL BE REQUIRED TO SUBMIT AND RECEIVE A DEMOLITION PERMIT WITH THE CITY.

DEMOLITION CONTRACTOR MUST BE LICENSED/ON APPROVED LIST WITH THE CITY BUILDING DEPARTMENT.

ASBESTOS REPORTS

Asbestos Survey

Prepared for the City of Canton Demolition Department

For the property located at

826-828 12th Street NE

Canton, OH 44703



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APPENDIX B	CHAIN OF CUSTODY FORMS	B5
APPENDIX C	LABORATORY SAMPLE RESULTS	C6

Provided by Positive Energy Environmental
Prepared by Darrell Morris, Certification ES35369

18708 Van Aken Blvd.

Shaker Heights, OH 44122

Phone (216) 466 – 5295 Fax (216) 373 – 7291

alchemyschool1@yahoo.com

emanuelangela@yahoo.com

SECTION 1 – EXECUTIVE SUMMARY

Positive Energy Environmental performed an asbestos building inspection (Survey) for the City of Canton Demolition Department, on a property located at 1124 Market Avenue N, Canton, OH 44702, pursuant to a Purchase Order for the same. These assessments are completed in order to identify any asbestos containing material (ACM) currently present in the structures.

The report will determine which ACM will require removal before renovation, demolition, or occupancy. The report also identifies “Homogenous Areas (HA), which are materials that are uniform in texture, color, date of application, use or system, and appear identical in every other respect. All determinations will be in accordance with the NESHAP 40 CFR Part 61, Subpart M, federal regulations regarding the National Emissions Standards for Asbestos.

The following is a list of the suspect building materials at the assessed premises.

Material Tested	Sample Numbers	H.A.	Locations of Material Tested	Quantity	Condition	RACM	Friable	Remove Y/N
Pipe Wrapping	14	D	Basement	200 linear ft.	F	Y	Y	Y
Plaster	01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13	A, B, C	Apt. 1 Kitchen, Apt. 1 Living Room, Apt. 1 Bedroom 1, Apt. 1 Hallway, Apt. 1 Bathroom, Apt. 2 Kitchen, Apt. 2 Bathroom, Apt 2 Living Room, Apt. 2 Bedroom 1, Apt. 2 Hallway, Store front Bathroom, Store front Wall	10,000 sq. ft.	F	Y	Y	N
Asphalt Roof Shingles	Assumed	F	Entire Roof	4,000 sq. ft.	F	N	N	N
Vinyl Flooring	15	E	Throughout Dwelling	2,000 sq. ft.	F	N	N	N

**** ALL PLASTER HAS BEEN POINT COUNTED TO DOWN TO 1% OR LESS, WHICH DOES NOT NEED ABATEMENT****

Transite Y/N: N

Clean Out Needed Y/N: Y

SECTION 2 – SURVEY FINDINGS

The assessed property is a vacant commercial property, Permanent Parcel No. 100004348 according to the Stark County Auditor's website. According to Auditor's website, the structure is classified as a commercial, other retail structure. There is a brick on masonry exterior. The Stark County Auditor's website did not have the information about the building listed, it shows no data for the parcel. The inspector states the building's square footage is 12,000 square feet. Darrell Morris, Certified Asbestos Hazard Evaluation Specialist, ES35369, conducted the assessment on March 25, 2014. The weather was overcast, with a temperature of 55* F.

The samples were taken by the hand "Grab" method, containerized, labeled, and recorded on a "Chain of Custody" log, as shown in Appendix B. All sampling was done on a random basis in accordance with the NESHAP 40 CFR Part 61, Subpart M, federal regulations regarding the National Emissions Standards for Asbestos. The samples were analyzed by Polar Light Microscopy (PLM) by a NVLAP accredited laboratory. The accredited test method was EPA/600M-4-82-020. Procedures described in EPA/600/R-93116 have been incorporated where applicable. Any sample with a positive PLM for asbestos, and less than 10% content was automatically "Point Tested". Testing was halted on the "First Positive" of any one Homogenous Area. Condition qualifications are as follows:

"Good" means no damage

"Fair" means up to 10% overall damage and up to 25% localized damage

"Poor" means over 10% overall damage and over 25% localized damage

Certain items are "Assumed" ACM because of two reasons. Firstly, the material is clearly recognized as ACM based upon the Inspector's experience, and indicated as such. Secondly, the building material in question may be considered Non-Friable, therefore not required to be removed prior to demolition. This would occur when the matrix that may contain the ACM is considered sufficient to contain any asbestos material that may be present in the particular homogenous area. These materials are "Category I Non-Friable", like asphalt shingle roofing and floor tile. If any of these materials are in poor condition, and would likely become friable during the demolition process, then they would be categorized as Friable, and be required to be removed prior to demolition. In any case the demolition contractor must use appropriate "Wet Methods" while taking down the structure. If additional suspect ACM is found during demolition, the contractor should immediately **STOP and must call the Qualified Individual designated by the City of Canton.**

Respectfully Submitted,



Darrell Morris

April 1, 2014

Certification Number ES35369

Page 2

SECTION 3 – SCOPE OF SERVICES

IDENTIFICATION

A visual inspection is conducted, in all accessible areas of the building(s), for the presence of suspect Asbestos Containing Materials (ACM). Materials with the same color, texture, date of application, system, or use are considered in the same Homogenous Area (HA).

DETECTION

The number and location of samples required for each HA will be determined. a drawing of the facility will be provided showing each sample taken. If determined necessary, sample locations will be marked in the field. Digital images will be taken of any areas deemed necessary by the Qualified Inspector.

Samples taken by a Qualified Individual, who has the requisite licensing/certification for the state in which sampling is taking place. The samples will be containerized, labeled, and recorded on a “Chain of Custody Form” for proper documentation. While sampling, all precautions will be taken to protect the health and safety of all workers, and any individual that might have access to the sampling areas.

Samples will be submitted to a qualified laboratory for testing. The samples will be analyzed by Polar Light Microscopy (PLM). The accredited test method will be EPA/600/M-4-82/020. Procedures described in EPA/600/R-93/116 have been incorporated where applicable. Any sample with a positive PLM for asbestos, and under 10% content, were automatically “Point Tested”.

ASSESSMENT

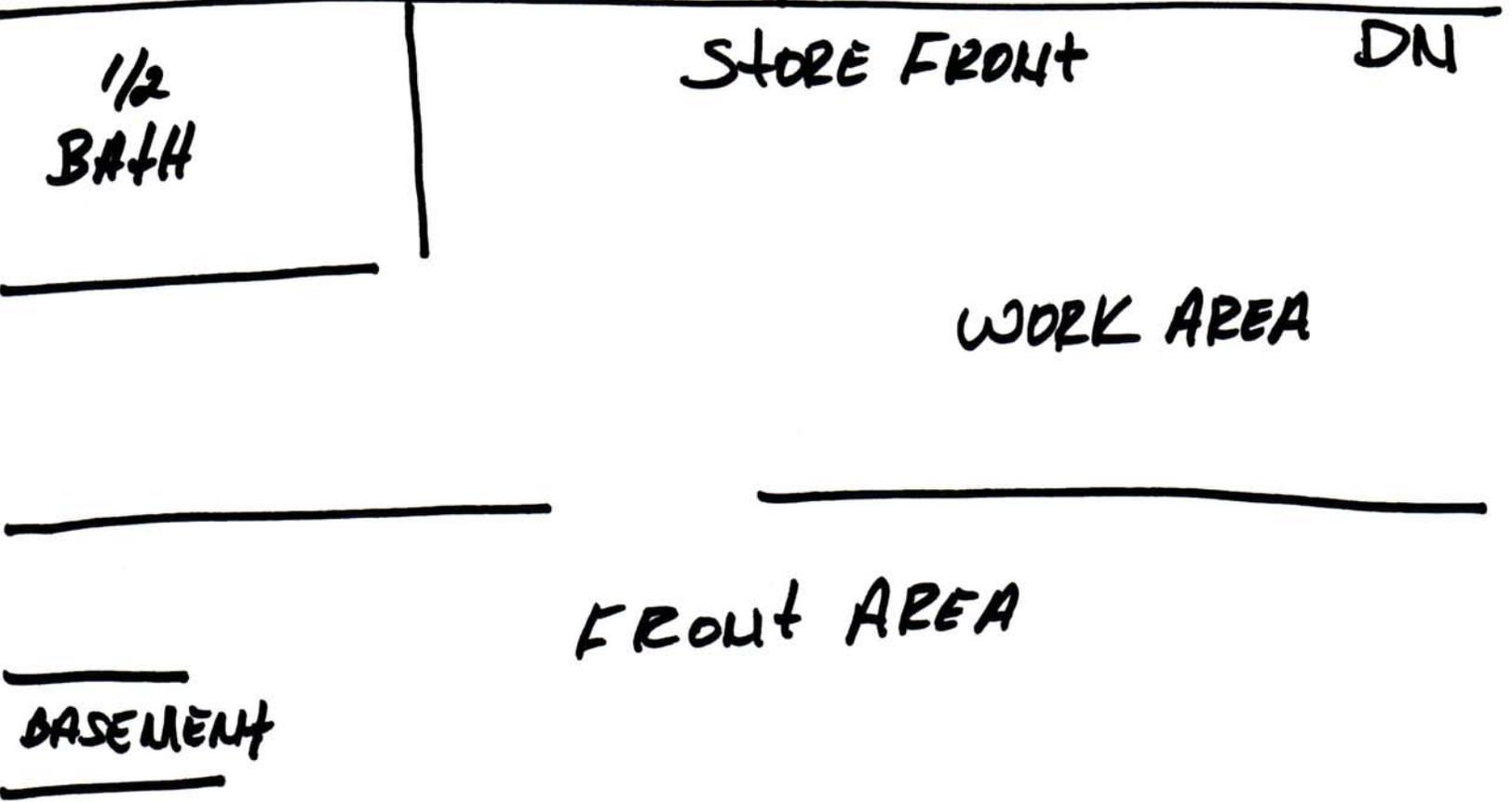
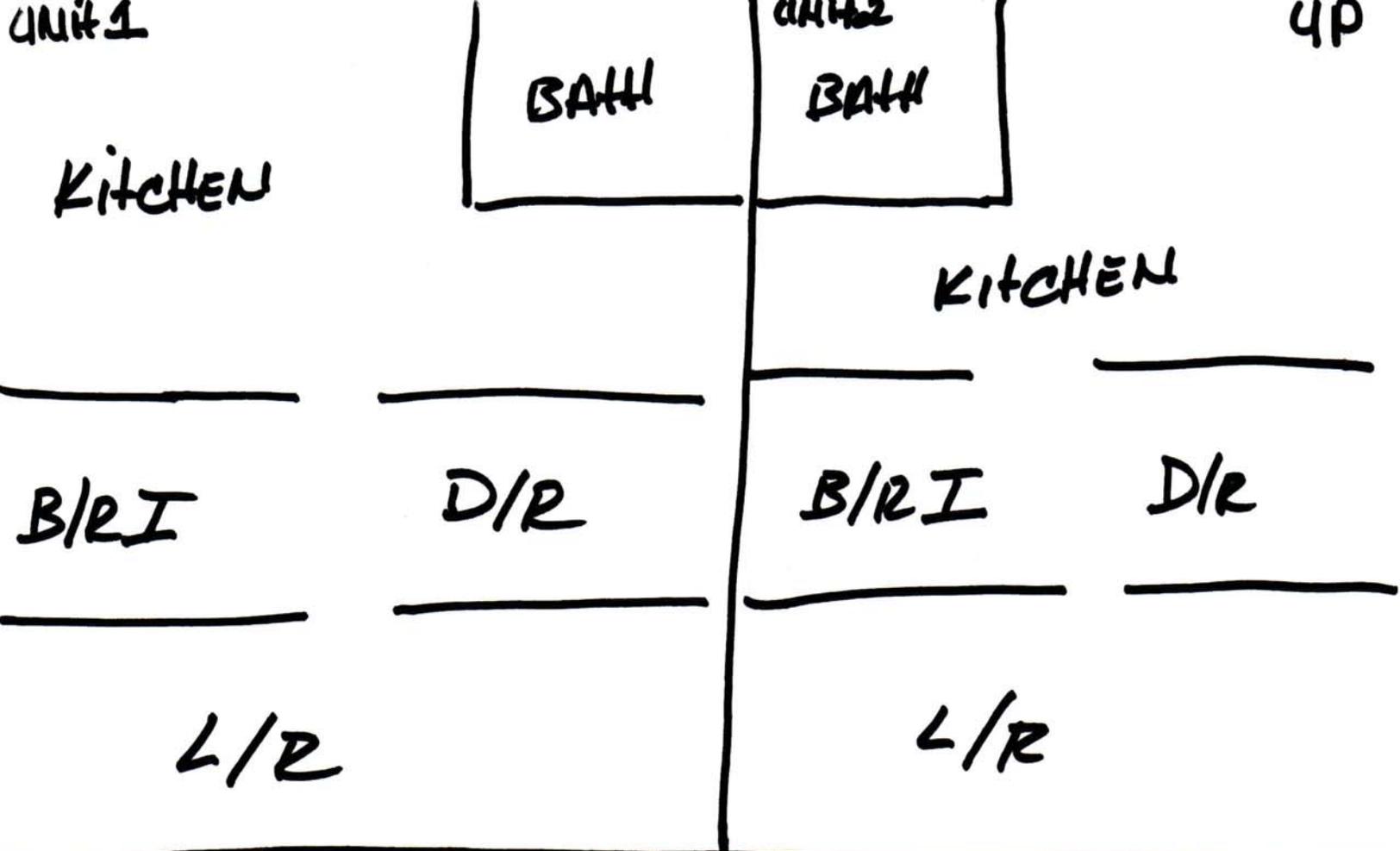
All laboratory results will be analyzed to determine the content of asbestos, if any. Based upon all applicable regulations, including quantity, condition and potential for disturbance, we will advise as to the response required for each HA that contains confirmed ACM.











BASEMENT

828 12th St. NW

C6

L & S LAB CONSULTING, INC.
 P.O. BOX 202354
 SHAKER HTS., OHIO 44120
 OFFICE PHONE # (216) 496.7272
 FAX PHONE # (216) 373.1495

Microscopist/ Microbiologist
 AHES #35133/ AIHA #209001

E-Mail LSEnviroConsult@gmail.com

Client: Positive Energy Environmental
 6700 Fleet Ave.
 Cleveland, OH 44105

Date Received: 4.1.2014
Job Number:
Report Number: P1430101

Project Location: 828 12th St. N.E.
 Canton, OH

ASBESTOS BULK ANALYSIS REPORT

SAMPLE I.D.#	HOMO AREA	LOCATION	SAMPLE DESCRIPTION	COMPONENTS	APPROX. %
01	A	Apt. #1 kitchen	Plaster system Top layer Base layer	No Asbestos Detected Chrysotile Asbestos	0.50%
02	A	Apt. #1 living room	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
03	A	Apt. #1 bedroom #1	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
04	A	Apt. #1 hallway	Plaster system Top layer Base layer	No Asbestos Detected Chrysotile Asbestos	1.0%
05	A	Apt. #1 bathroom	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
06	B	Apt. #2 kitchen	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
07	B	Apt. #2 bathroom	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
08	B	Apt. #2 living room	Plaster system Top layer Base layer	No Asbestos Detected Chrysotile Asbestos	0.50%
09	B	Apt. #2 bedroom #1	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
10	B	Apt. #2 hallway	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
11	C	Store front bathroom	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
12	C	Store front wall	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	

Test Method: EPA-600/M4-82-020 - EPA-600/R-93-116
Analytical Technique: Polarized Light Microscope
Instrumentation: Olympus BHTP Polarized Light Microscope
Quantification: Visual Microscopic Examination
Sample Data Taken By: Darrell Morris
Analysis Performed By: F. Woods, Lab

Note: Point Count Methods of Analysis conducted on samples less than 10% Asbestos

Reviewed & Approved By: 
Completion Date: 4.3.2014

L & S LAB CONSULTING, INC.
P.O. BOX 202354
SHAKER HTS., OHIO 44120
OFFICE PHONE # (216) 496.7272
FAX PHONE # (216) 373.1495

Microscopist/ Microbiologist
AHES #35133/ AIHA #209001

E-Mail LSEnviroConsult@gmail.com

Client: Positive Energy Environmental
6700 Fleet Ave.
Cleveland, OH 44105

Date Received: 4.1.2014

Job Number:

Report Number: P1430101

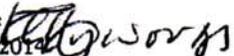
Project Location: 828 12th St. N.E.
Canton, OH

ASBESTOS BULK ANALYSIS REPORT

SAMPLE I.D.#	HOMO AREA	LOCATION	SAMPLE DESCRIPTION	COMPONENTS	APPROX. %
13	C	Store front wall	Plaster system Top layer Base layer	No Asbestos Detected No Asbestos Detected	
14	D	Basement pipe	Pipe wrap insulation	Chrysotile Asbestos	50%
15	E	Apt. bathroom floor	Dark floor tile	No Asbestos Detected	

Test Method: EPA-600/M4-82-020 - EPA-600/R-93-116
Analytical Technique: Polarized Light Microscope
Instrumentation: Olympus BHTP Polarized Light Microscope
Quantification: Visual Microscopic Examination
Sample Data Taken By: Darrell Morris
Analysis Performed By: F. Woods, Lab

*Note: Point Count Methods of
Analysis conducted on samples
less than 10% Asbestos*

Reviewed & Approved By: 
Completion Date: 4.3.2014

Asbestos Survey

Prepared for the City of Canton Demolition Department

For the property located at

219 12th Street NE

Canton, OH 44704



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Provided by Positive Energy Environmental
Prepared by Darrell Morris, Certification ES35369
18708 Van Aken Blvd.
Shaker Heights, OH 44122
Phone (216) 466 – 5295 Fax (216) 373 – 7291
alchemyschool1@yahoo.com
emanuelangela@yahoo.com

SECTION 1 – EXECUTIVE SUMMARY

Positive Energy Environmental performed an asbestos building inspection (Survey) for the City of Canton Transportation Department, on a property located at 219 12th Street NE, Canton, OH 44704, pursuant to a Purchase Order for the same. These assessments are completed in order to identify any asbestos containing material (ACM) currently present in the structures.

The report will determine which ACM will require removal before renovation, demolition, or occupancy. The report also identifies “Homogenous Areas (HA), which are materials that are uniform in texture, color, date of application, use or system, and appear identical in every other respect. All determinations will be in accordance with the NESHAP 40 CFR Part 61, Subpart M, federal regulations regarding the National Emissions Standards for Asbestos.

The following is a list of the suspect building materials at the assessed premises.

Material Tested	Sample Numbers	H.A.	Locations of Material Tested	Quantity	Condition	RACM	Friable	Remove Y/N
Plaster	01, 02, 03, 04, 05, 06	A	Ceiling, Retail Area	800 sq. ft.	F	N	Y	N
Asphalt Roof Shingles	Assumed	B	Entire Roof	2,500 sq. ft.	F	N	N	N
Vinyl Flooring	Assumed	C	Throughout Structure	2,000 sq. ft.	F	N	N	N

The interior and exterior of the building is brick, there was no materials to test for wall coverings.

Transite Y/N: N

Clean Out Needed Y/N: Y

SECTION 2 – SURVEY FINDINGS

The assessed property is a vacant commercial property, Permanent Parcel No. 218355 according to the Stark County Auditor's website. According to Auditor's website, the structure is classified as a commercial, store, retail. There is a brick on masonry exterior. The Stark County Auditor's website shows the building with 1500 square feet and build in 1948. Darrell Morris, Certified Asbestos Hazard Evaluation Specialist, ES35369, conducted the assessment on April 9, 2014. The weather was overcast, with a temperature of 55* F.

The samples were taken by the hand "Grab" method, containerized, labeled, and recorded on a "Chain of Custody" log, as shown in Appendix B. All sampling was done on a random basis in accordance with the NESHAP 40 CFR Part 61, Subpart M, federal regulations regarding the National Emissions Standards for Asbestos. The samples were analyzed by Polar Light Microscopy (PLM) by a NVLAP accredited laboratory. The accredited test method was EPA/600M-4-82-020. Procedures described in EPA/600/R-93116 have been incorporated where applicable. Any sample with a positive PLM for asbestos, and less than 10% content was automatically "Point Tested". Testing was halted on the "First Positive" of any one Homogenous Area. Condition qualifications are as follows:

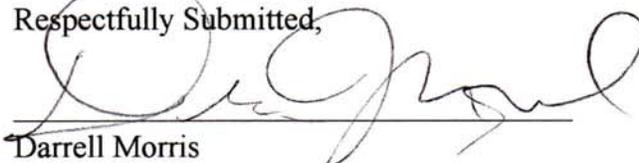
"Good" means no damage

"Fair" means up to 10% overall damage and up to 25% localized damage

"Poor" means over 10% overall damage and over 25% localized damage

Certain items are "Assumed" ACM because of two reasons. Firstly, the material is clearly recognized as ACM based upon the Inspector's experience, and indicated as such. Secondly, the building material in question may be considered Non-Friable, therefore not required to be removed prior to demolition. This would occur when the matrix that may contain the ACM is considered sufficient to contain any asbestos material that may be present in the particular homogenous area. These materials are "Category I Non-Friable", like asphalt shingle roofing and floor tile. If any of these materials are in poor condition, and would likely become friable during the demolition process, then they would be categorized as Friable, and be required to be removed prior to demolition. In any case the demolition contractor must use appropriate "Wet Methods" while taking down the structure. If additional suspect ACM is found during demolition, the contractor should immediately **STOP and must call the Qualified Individual designated by the City of Canton.**

Respectfully Submitted,


Darrell Morris

April 15, 2014

Certification Number ES35369

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SECTION 3 – SCOPE OF SERVICES

IDENTIFICATION

A visual inspection is conducted, in all accessible areas of the building(s), for the presence of suspect Asbestos Containing Materials (ACM). Materials with the same color, texture, date of application, system, or use are considered in the same Homogenous Area (HA).

DETECTION

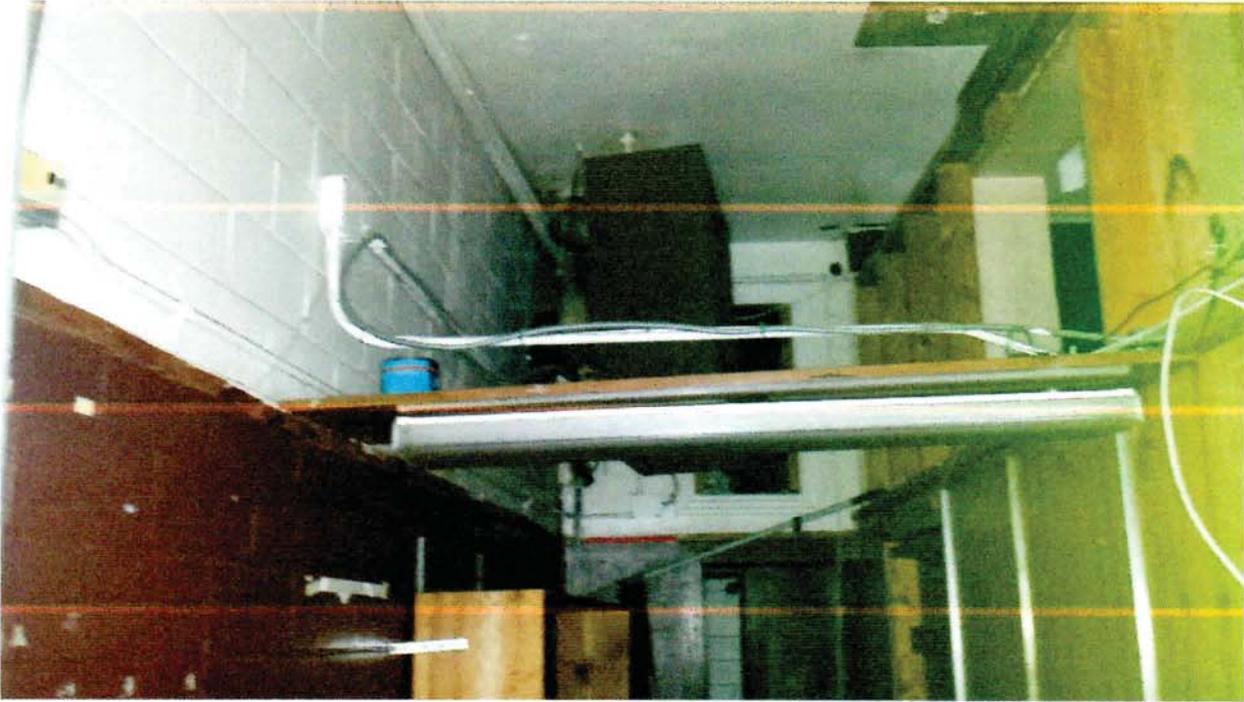
The number and location of samples required for each HA will be determined. a drawing of the facility will be provided showing each sample taken. If determined necessary, sample locations will be marked in the field. Digital images will be taken of any areas deemed necessary by the Qualified Inspector.

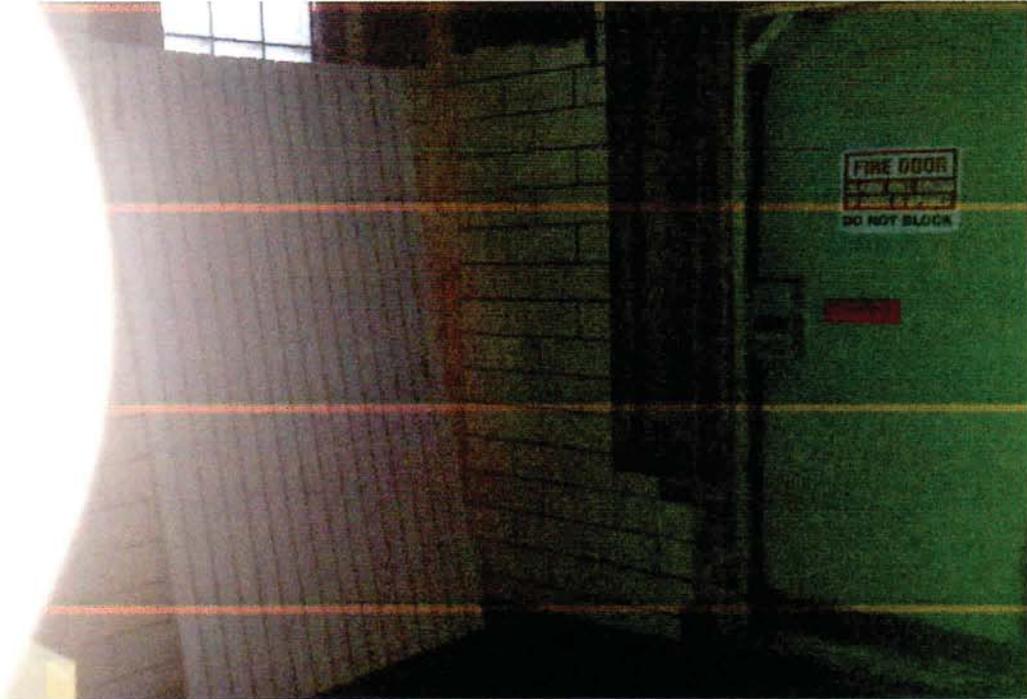
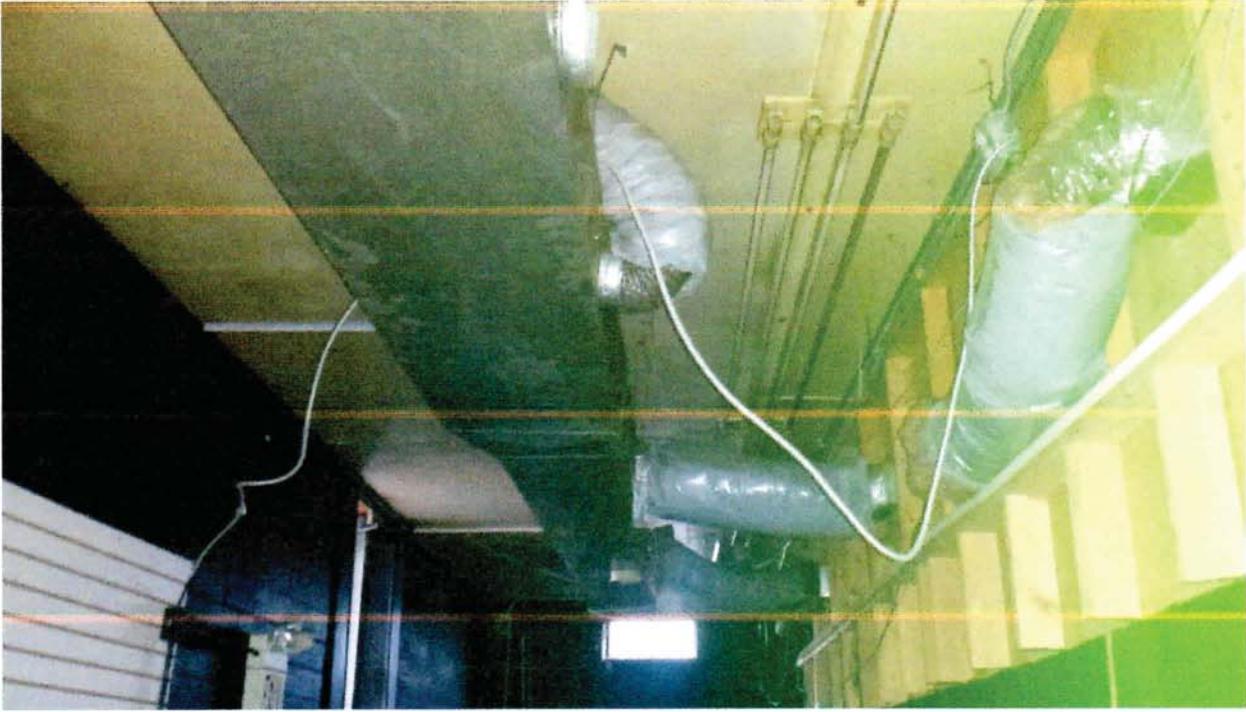
Samples taken by a Qualified Individual, who has the requisite licensing/certification for the state in which sampling is taking place. The samples will be containerized, labeled, and recorded on a “Chain of Custody Form” for proper documentation. While sampling, all precautions will be taken to protect the health and safety of all workers, and any individual that might have access to the sampling areas.

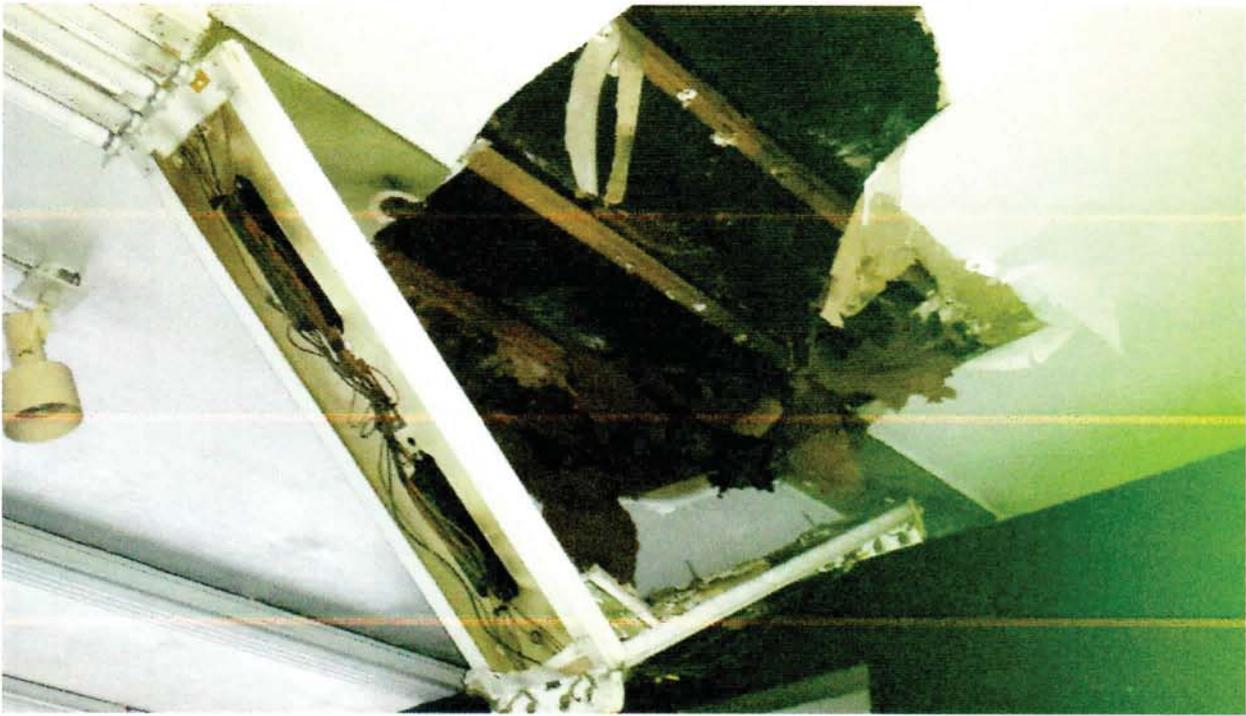
Samples will be submitted to a qualified laboratory for testing. The samples will be analyzed by Polar Light Microscopy (PLM). The accredited test method will be EPA/600/M-4-82/020. Procedures described in EPA/600/R-93/116 have been incorporated where applicable. Any sample with a positive PLM for asbestos, and under 10% content, were automatically “Point Tested”.

ASSESSMENT

All laboratory results will be analyzed to determine the content of asbestos, if any. Based upon all applicable regulations, including quantity, condition and potential for disturbance, we will advise as to the response required for each HA that contains confirmed ACM.





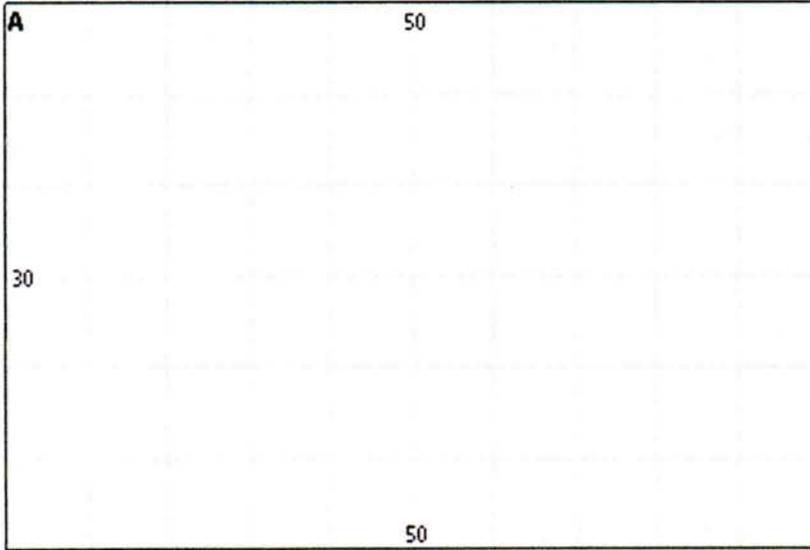




A4

Scale: 5ft

A 450
1500 sqft



Sketch - Data as of 4/12/2014 2:43:59 AM from the Stark County Auditor's Website

L & S CONSULTING, INC. P.O. BOX 202354 SHAKER HTS., OHIO 44120 OFFICE PHONE # (216) 496.7272 # (216) 965-9993 FAX PHONE # (216) 373.1495	Microscopist/Microbiologist AHES #35133 AIHA E-Mail LSEnviroConsult@gmail.com
--	--

**CHAIN OF CUSTODY
RECORD**

CLIENT: Positive Energy Environmental, LLC
6700 Fleet Ave
Columbus OH 43215
Date Received: 4-10-2014

PROJECT LOCATION: 219 12th Street N.E.
Canton, OH

Relinquished By: Darrell Morris
Date: 4-10-2014 **Time:** _____
Received By: Let's Lab Consultants, Inc.
Date: 4-10-14 **Time:** PM

Sample I.D. #	Home Area	Location	Sample Description	Components	%Asbestos
01 A	-	ceiling areas	Light Textured Plaster surface	1/2 =	1/2 =
02 A	-	-	-	=	-
03 A	-	-	-	=	-
04 A	-	-	-	=	-
05 A	-	-	-	=	-
06 A	-	-	-	=	-

Comments: _____ **Sample Date:** _____ **Taken By:** _____
Darrell Morris
F. Lab, Consultants, Inc.
Completed 4-14-15

06

L & S LAB CONSULTING, INC. P.O. BOX 202354 SHAKER HTS., OHIO 44120 OFFICE PHONE # (216) 496.7272 FAX PHONE # (216) 373.1495	Microscopist/ Microbiologist AHES #35133/ AIHA #209001 E-Mail LSEnviroConsult@gmail.com
--	--

Client: Positive Energy Environmental
 6700 Fleet Ave.
 Cleveland, OH 44105

Date Received: 4/10/14
Job Number:
Report Number: P141401

Project Location: 219 12th Street, N. E.
 Canton, OH

ASBESTOS BULK ANALYSIS REPORT

SAMPLE I.D.#	HOMO AREA	LOCATION	SAMPLE DESCRIPTION	COMPONENTS	APPROX. %
01	A	Ceiling areas	Light textured surface plaster Top layer Base layer	No Asbestos Detected No Asbestos Detected	
02	A	Ceiling areas	Light textured surface plaster Top layer Base layer	No Asbestos Detected No Asbestos Detected	
03	A	Ceiling areas	Light textured surface plaster Top layer Base layer	No Asbestos Detected No Asbestos Detected	
04	A	Ceiling areas	Light textured surface plaster Top layer Base layer	No Asbestos Detected No Asbestos Detected	
05	A	Ceiling areas	Light textured surface plaster Top layer Base layer	No Asbestos Detected No Asbestos Detected	
06	A	Ceiling areas	Light textured surface plaster Top layer Base layer	No Asbestos Detected No Asbestos Detected	

Test Method: EPA-600/M4-82-020 - EPA-600/R-93-116
Analytical Technique: Polarized Light Microscope
Instrumentation: Olympus BHTP Polarized Light Microscope
Quantification: Visual Microscopic Examination
Sample Data Taken By: Darrell Morris
Analysis Performed By: F. Woods, Lab

Note: Point Count Methods of Analysis conducted on samples less than 10% Asbestos

Reviewed & Approved By: 
Completion Date: 4/17/14

Asbestos Survey

Prepared for the City of Canton Demolition Department

For the property located at

1124 Market Avenue N

Canton, OH 44702



SECTION	CONTENT	PAGE
1	EXECUTIVE SUMMARY	1
2	SURVEY FINDINGS	2
3	SCOPE OF SERVICES	3
SECTION	APPENDICES	PAGE
APPENDIX A	DRAWINGS	A4
APPENDIX B	CHAIN OF CUSTODY FORMS	B5
APPENDIX C	LABORATORY SAMPLE RESULTS	C6

Provided by Positive Energy Environmental
Prepared by Darrell Morris, Certification ES35369
18708 Van Aken Blvd.
Shaker Heights, OH 44122
Phone (216) 466 – 5295 Fax (216) 373 – 7291
alchemyschool1@yahoo.com
emanuelangela@yahoo.com

SECTION 1 – EXECUTIVE SUMMARY

Positive Energy Environmental performed an asbestos building inspection (Survey) for the City of Canton Demolition Department, on a property located at 1124 Market Avenue N, Canton, OH 44702, pursuant to a Purchase Order for the same. These assessments are completed in order to identify any asbestos containing material (ACM) currently present in the structures.

The report will determine which ACM will require removal before renovation, demolition, or occupancy. The report also identifies “Homogenous Areas (HA), which are materials that are uniform in texture, color, date of application, use or system, and appear identical in every other respect. All determinations will be in accordance with the NESHAP 40 CFR Part 61, Subpart M, federal regulations regarding the National Emissions Standards for Asbestos.

The following is a list of the suspect building materials at the assessed premises.

Material Tested	Sample Numbers	H.A.	Locations of Material Tested	Quantity	Condition	RACM	Friable	Remove Y/N
Pipe Wrapping	1	A	Basement	300 linear ft.	F	Y	Y	Y

****THE STRUCTURE CONSISTED OF WOOD, STEEL, AND CONCRETE, THERE WERE NO FRIABLE MATERIALS TO TEST BESIDES THE PIPE WRAPPING ON THE BOILER. THE STRUCTURE STILL CONTAINS MACHINERY.**

Transite Y/N: N

Clean Out Needed Y/N: Y

SECTION 2 – SURVEY FINDINGS

The assessed property is a vacant commercial property, Permanent Parcel No. 243459 according to the Stark County Auditor's website. According to Auditor's website, the structure is a commercial auto, repair/body structure, with a brick on masonry exterior. The structure was an auto dealership, it consists of 16,892 square feet of auto/repair and body shop built in 1934 and 1956, 2,790 square feet of office/general space built in 1955 and 1956, 1,440 of auto/showroom area built in 1955, and 400 square feet of garage/general area built in 1987. Darrell Morris, Certified Asbestos Hazard Evaluation Specialist, ES35369, conducted the assessment on March 15, 2014. The weather was overcast, with a temperature of 55* F.

The samples were taken by the hand "Grab" method, containerized, labeled, and recorded on a "Chain of Custody" log, as shown in Appendix B. All sampling was done on a random basis in accordance with the NESHAP 40 CFR Part 61, Subpart M, federal regulations regarding the National Emissions Standards for Asbestos. The samples were analyzed by Polar Light Microscopy (PLM) by a NVLAP accredited laboratory. The accredited test method was EPA/600M-4-82-020. Procedures described in EPA/600/R-93116 have been incorporated where applicable. Any sample with a positive PLM for asbestos, and less than 10% content was automatically "Point Tested". Testing was halted on the "First Positive" of any one Homogenous Area. Condition qualifications are as follows:

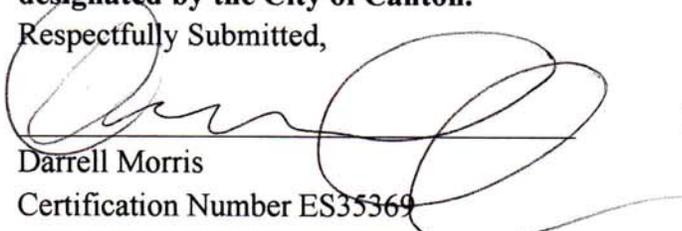
"Good" means no damage

"Fair" means up to 10% overall damage and up to 25% localized damage

"Poor" means over 10% overall damage and over 25% localized damage

Certain items are "Assumed" ACM because of two reasons. Firstly, the material is clearly recognized as ACM based upon the Inspector's experience, and indicated as such. Secondly, the building material in question may be considered Non-Friable, therefore not required to be removed prior to demolition. This would occur when the matrix that may contain the ACM is considered sufficient to contain any asbestos material that may be present in the particular homogenous area. These materials are "Category I Non-Friable", like asphalt shingle roofing and floor tile. If any of these materials are in poor condition, and would likely become friable during the demolition process, then they would be categorized as Friable, and be required to be removed prior to demolition. In any case the demolition contractor must use appropriate "Wet Methods" while taking down the structure. If additional suspect ACM is found during demolition, the contractor should immediately **STOP and must call the Qualified Individual designated by the City of Canton.**

Respectfully Submitted,


Darrell Morris

Certification Number ES35369

March 18, 2014

SECTION 3 – SCOPE OF SERVICES

IDENTIFICATION

A visual inspection is conducted, in all accessible areas of the building(s), for the presence of suspect Asbestos Containing Materials (ACM). Materials with the same color, texture, date of application, system, or use are considered in the same Homogenous Area (HA).

DETECTION

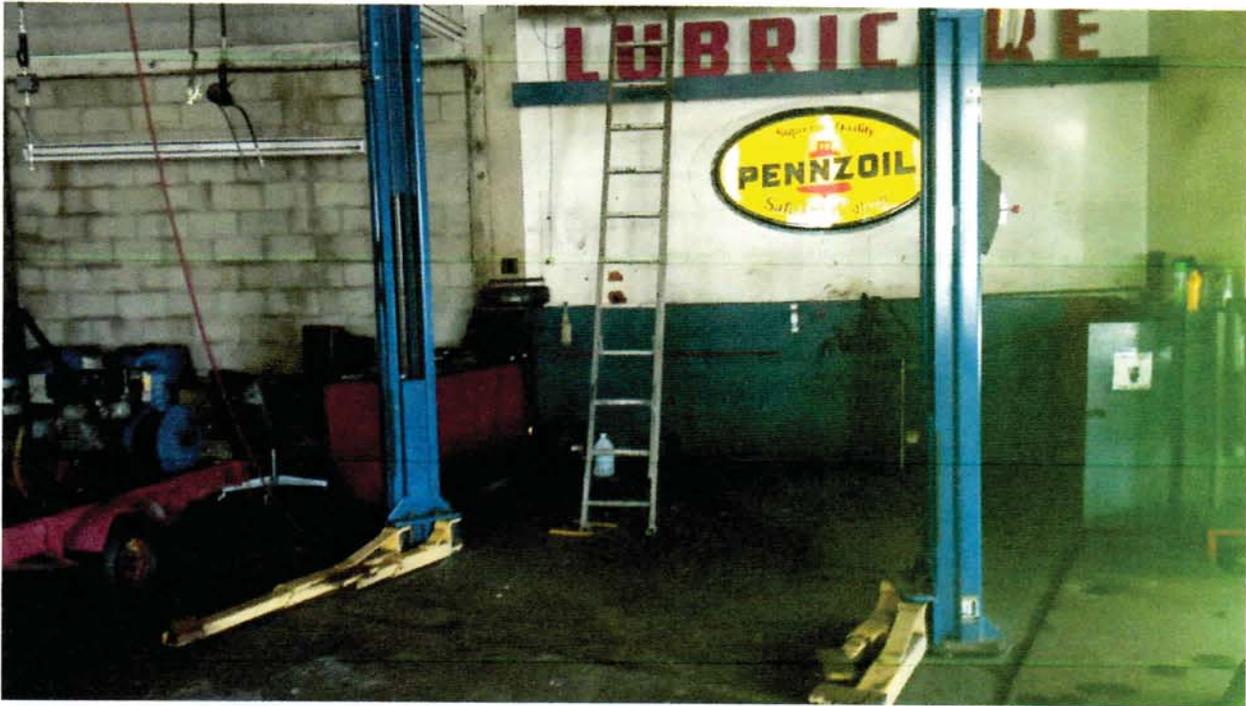
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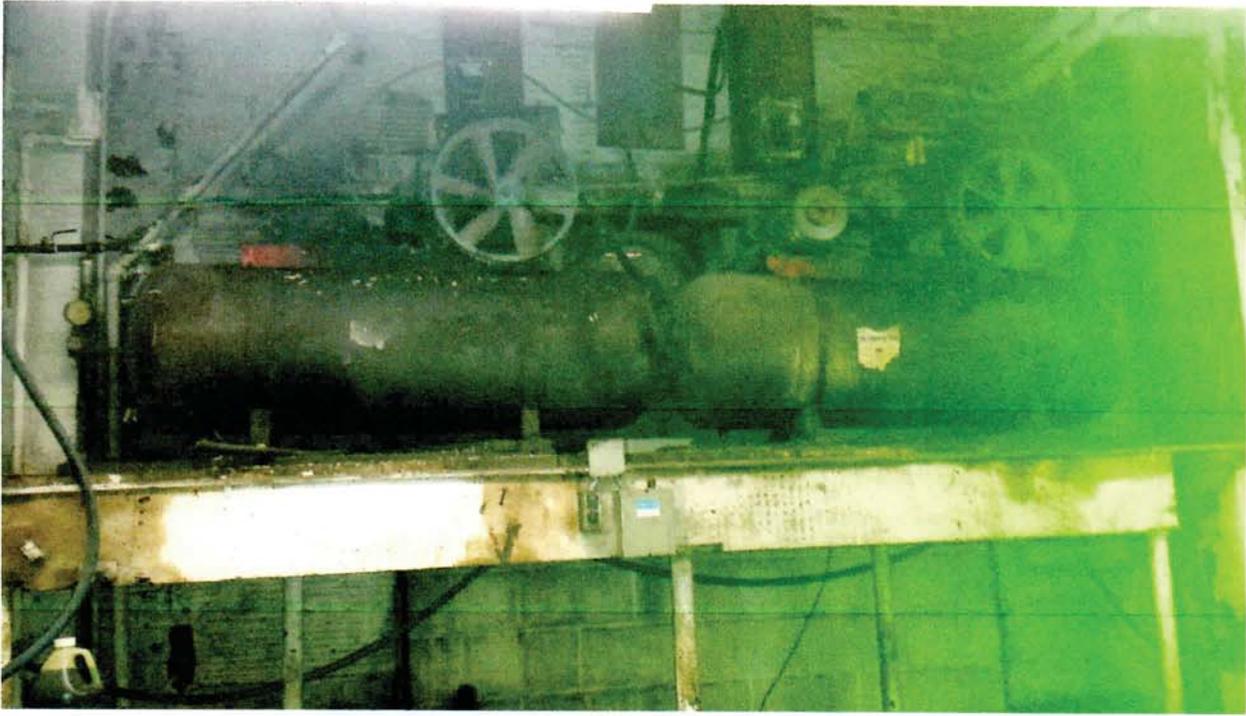
Samples taken by a Qualified Individual, who has the requisite licensing/certification for the state in which sampling is taking place. The samples will be containerized, labeled, and recorded on a “Chain of Custody Form” for proper documentation. While sampling, all precautions will be taken to protect the health and safety of all workers, and any individual that might have access to the sampling areas.

Samples will be submitted to a qualified laboratory for testing. The samples will be analyzed by Polar Light Microscopy (PLM). The accredited test method will be EPA/600/M-4-82/020. Procedures described in EPA/600/R-93/116 have been incorporated where applicable. Any sample with a positive PLM for asbestos, and under 10% content, were automatically “Point Tested”.

ASSESSMENT

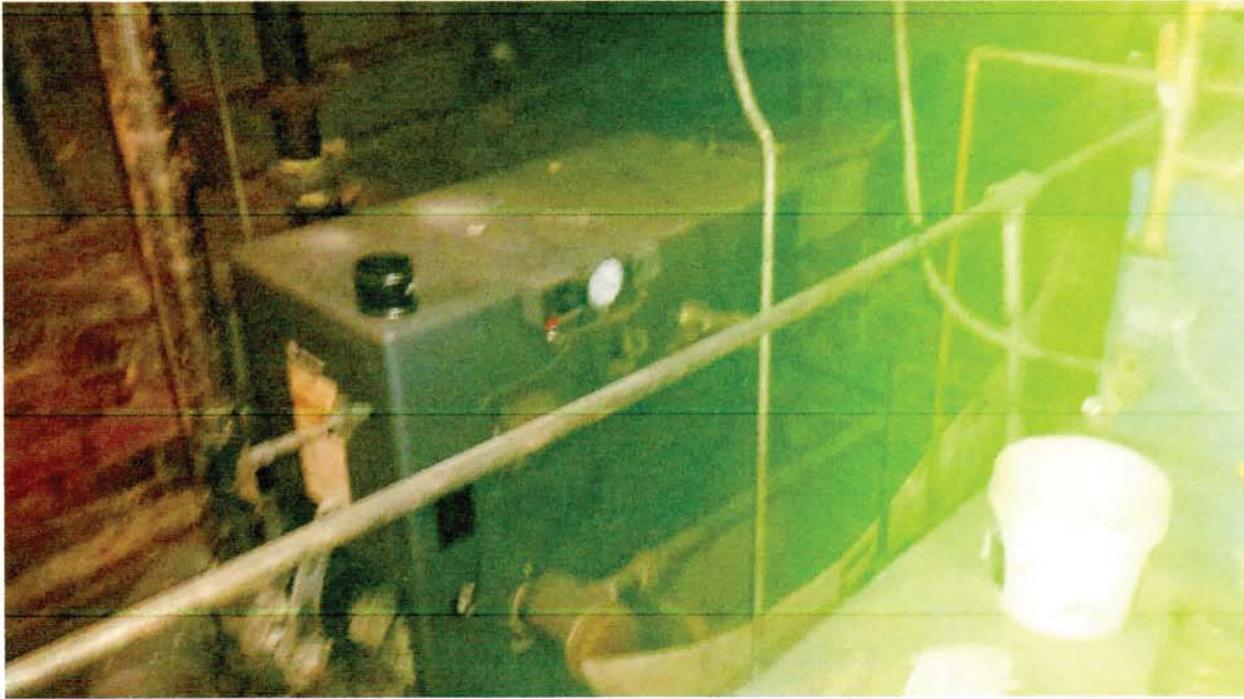
All laboratory results will be analyzed to determine the content of asbestos, if any. Based upon all applicable regulations, including quantity, condition and potential for disturbance, we will advise as to the response required for each HA that contains confirmed ACM.



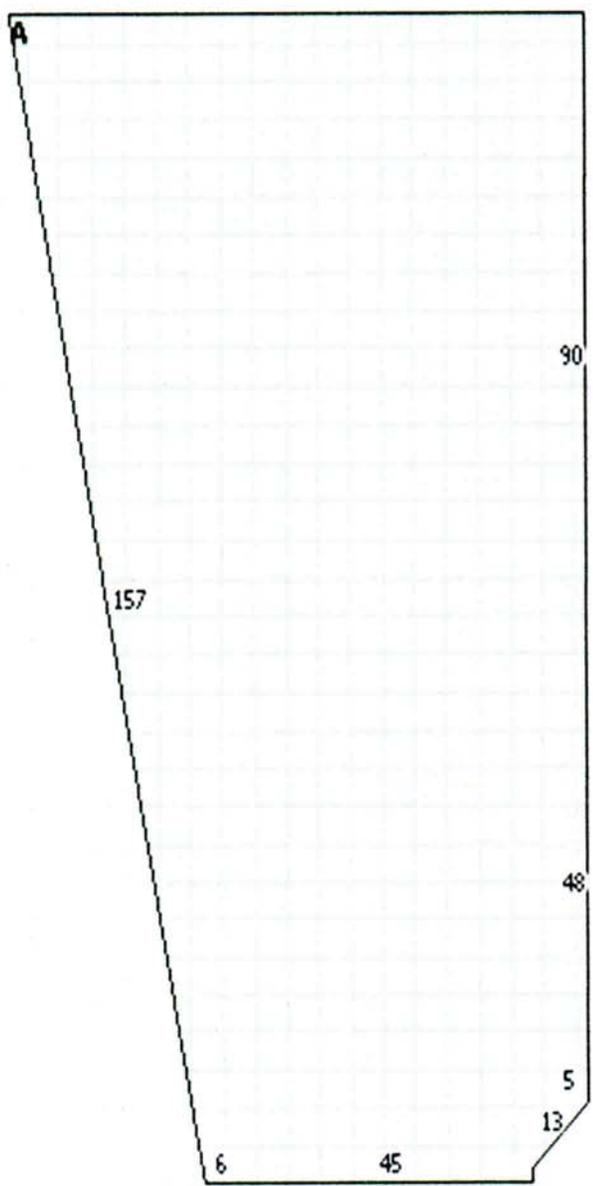








A4



Scale: 5ft

A 214
11491.5 sqft

66

L & S LAB CONSULTING, INC.
P.O. BOX 202354
SHAKER HTS., OHIO 44120
OFFICE PHONE # (216) 496.7272
FAX PHONE # (216) 373.1495

Microscopist/ Microbiologist
AHES #35133/ AIHA #209001

E-Mail LSEnviroConsult@gmail.com

Client: Positive Energy Environmental, LLC
6700 Fleet Ave.
Cleveland, Ohio 44105

Date Received: 3/17/14
Job Number:
Report Number: P1431701

Project Location: 1124 Market Ave. North
Akron, Ohio

ASBESTOS BULK ANALYSIS REPORT

SAMPLE I.D.#	HOMO AREA	LOCATION	SAMPLE DESCRIPTION	COMPONENTS	APPROX. %
01	A	Basement	Aircell Pipe Wrap	Chrysotile Asbestos	70%
02	A	Basement	Aircell Pipe Wrap	Chrysotile Asbestos	70%
03	A	Basement	Aircell Pipe Wrap	Chrysotile Asbestos	70%

Test Method: EPA-600/M4-82-020 - EPA-600/R-93-116
Analytical Technique: Polarized Light Microscope
Instrumentation: Olympus BHTP Polarized Light Microscope
Quantification: Visual Microscopic Examination
Sample Data Taken By: Darrell Morris
Analysis Performed By: F. Woods, Lab

Note: Point Count Methods of Analysis conducted on samples less than 10% Asbestos

Reviewed & Approved By: *[Signature]*
Completion Date: 3/18/14

F. Woods

APPENDIX G

Ohio Department of Transportation (ODOT) & Federal Requirements

- ODOT 2013 Federal LPA Template
Including FHWA Form 1273 (See Section 29)
- Local Public Agency (LPA) Agreement

The Contractor and this contract are subject and required to comply with all local, state, and federal requirements as detailed in the following documents. In addition, all ODOT and Canton Standard Construction Drawings and Supplemental Specifications as identified in the Project Plans are incorporated into the contract documents by reference.

The Contractor will receive direct payments for this project from ODOT and CITY and must comply with all state requirements needed to facilitate this process.

NOTE: The Contractor must circle a response under section 6 on the following page (Federally Required EEO Certification)

By signing the specified contract proposal, of which the ODOT 2013 LPA Template (ODOT Spec Book and LPA Spec Book) has been incorporated, the bidder agrees to all of the below provisions.

ODOT's 2013 LPA Template (ODOT Spec Book and LPA Spec Book) Required Contract Provisions.

1. ODOT'S 2013 CONSTRUCTION AND MATERIAL SPECIFICATIONS (CM&S) AND ITS SUPPLEMENTS

With the exception of Section 100 "General Provisions" included in the matrix below, ODOT's 2013 Construction and Material Specifications (CM&S) and its supplements are hereby incorporated by reference, in their entirety, as if rewritten herein. The incorporation of this document by reference is not intended to interfere with the order of precedence set forth in Section 105.04 of the CMS Manual.

In accordance with the Locally Administrated Transportation Projects Manual of Procedures (LATPM), when bidding this project, the Contractor should replace the terms "the Department", "the Engineer" and "the DCE" with the term "the Local Public Agency (LPA)." Furthermore, nothing in this document is intended to alter the LPA's adherence to Ohio Revised Code, local ordinance or other applicable requirements which are properly established.

Excluded 2013 Specifications			
Section 102.01	Section 103.01	Section 105.19	Section 108.09
Section 102.03	Section 103.02	Section 107.04	Section 109.06
Section 102.06	Section 103.04	Section 107.13	Section 109.09
Section 102.09	Section 103.05	Section 108.01	Section 109.12(A)
Section 102.10	Section 103.06	Section 108.02(B)	Section 109.12(B)
Section 102.11	Section 103.07	Section 108.02(E)	Section 109.12(E)
Section 102.13	Section 104.02(A)	Section 108.02(F)	
Section 102.14	Section 105.05	Section 108.02(G)	
Section 102.17	Section 105.13	Section 108.08	

2. STEEL AND IRON PRODUCTS MADE IN THE UNITED STATES

Furnish steel and iron products that are made in the United States according to the applicable provisions of Federal regulations stated in 23 CFR 635.410 and State of Ohio laws, and ORC 153.011 and 5525.21.

"United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States. Both the State and Federal requirements contained in (A.) and (B.) of this section apply to this contract.

A. Federal Requirements. All steel or iron products incorporated permanently into the Work must be made of steel or iron produced in the United States and all subsequent manufacturing must be performed in the United States. Manufacturing is any process that modifies the chemical content; physical shape or size; or final finish of a product. Manufacturing begins with the initial melting and mixing, and continues through the bending and coating stages. If a domestic product is taken out of the United States for any process, it becomes a foreign source material.

B. State Requirements. All steel products used in the Work for load-bearing structural purposes must be made from steel produced in the United States. State requirements do not apply to iron.

C. Exceptions. ODOT may grant specific written permission to use foreign steel or iron products in bridge construction and foreign iron products in any type of construction. ODOT may grant such exceptions under either of the following conditions:

1. The cost of products to be used does not exceed 0.1 percent of the total Contract cost, or \$2,500, whichever is greater. The cost is the value of the product as delivered to the project.

2. The specified products are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet the requirements of the Contract Documents. ODOT may require the Contractor to obtain letters from three different suppliers documenting the unavailability of a product from a domestic source, if the shortage is not previously established.

D. Proof of Domestic Origin. Furnish documentation to the Engineer showing the domestic origin of all steel and iron products covered by this section, before they are incorporated into the Work. Products without a traceable domestic origin will be treated as a non-domestic product.

3. CERTIFICATION AGAINST DEBARMENT AND SUSPENSION

The bidder hereby certifies by signing this proposal that, except as noted below, under penalty of perjury and under other such penalties as the laws of this state and the United States of America provide, that the company or any person associated there with in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds is **not** currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency; that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds has **not** been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; that the company or any person associated therewith in the capacity of owner, partner, director, manager, auditor, or any position involving the administration of federal funds does **not** have a proposed debarment pending; that the company or any person associated there with in the capacity of owner, partner, director, officer, principal investigator has **not** been indicted, convicted, or had a civil judgment rendered against the company, or themselves by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

If there are exceptions to any of the above clauses please include a statement with the bid package detailing these exceptions.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, initiating agency and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. Execution of this proposal on the signature portion thereof shall constitute also signature of this certification as permitted by Title 28 United States Code, Section 1746.

4. PREQUALIFICATION

Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in force **at the time of bid, at the time of award, and through the life of the construction contract.**

For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor.

Subcontractors are not subject to the pre-qualification requirement. The “prime” contractor must perform no less than 30 percent of the total original contract price.

5. PN033 - 10/15/2004 - AS PER PLAN DESIGNATION

(Not required by FHWA, but strongly suggested if As Per Plan is used by the LPA)

For the last several years the “As Per Plan” designation has been added to some item descriptions in the proposal to assist the Contractors to easily identify standard items that have been altered by plan notes.

The “As Per Plan” designation has proven to be a very useful tool for the Contractors. However, its use was never intended to relieve the Contractors of their responsibility to read, bid and construct all items in accordance with all governing plan notes. Therefore, the absence of an “As Per Plan” designation on some item descriptions in the proposal for which there are clear and controlling plan notes does not relieve the Contractors of the responsibility to read, bid and construct those particular items in accordance with the governing plan notes.

Be advised that the item descriptions in the bidding proposal must be read or interpreted with the governing plan notes and the Construction and Material Specification Manual. A claim based upon an "order of precedence" basis will be denied. In the event that a conflict, either real or perceived, exists between the item description and the governing plan note, the Contractors are to request clarification through the pre- bid process.

6. **FEDERALLY REQUIRED EEO CERTIFICATION FORM**

The bidder hereby certifies that he **has**, **has not**, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he **has**, **has not**, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements. **The Bidder must circle the appropriate "has or has not" above.**

7. **PN 017 - 10/15/2004 - FEDERALLY REQUIRED EEO CERTIFICATION CLAUSE**

The Federally Required EEO Certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontractors which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

8. **PN 026 - 10/15/2004 - CERTIFICATION OF NONSEGREGATED FACILITIES**

(a) Certification of Nonsegregated Facilities, as required by the May 9, 1967, Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities (for a Federal-aid highway construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause).

(b) Bidders are cautioned as follows: By signing this bid, the bidder has agreed to the provisions of the "Certification of Nonsegregated Facilities" in this proposal. This certification provides that the bidder does not maintain or provide for his employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the bidder will not maintain such segregated facilities.

(c) Bidders receiving Federal-aid highway construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, will be required to provide for the forwarding

of the following notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

"Notice to Prospective Subcontractors and Material Suppliers of Requirement for Certification of Nonsegregated Facilities" -

- (a) A Certification of Nonsegregated Facilities as required by the May 9, 1967, Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, which is included in the proposal, or attached hereto, must be submitted by each subcontractor and material supplier prior to the award of the subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds \$10,000 and is not exempt from the provisions of the Equal Opportunity clause.
- (b) Subcontractors and material suppliers are cautioned as follows: By signing the subcontract or entering into a material supply agreement, the subcontractor or material supplier will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in the subcontract or material supply agreement. This certification provides that the subcontractor or material supplier does not maintain or provide for his employees facilities which are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the subcontractor or material supplier will not maintain such segregated facilities.
- (c) Subcontractors or material suppliers receiving subcontract awards or material supply agreements exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

9. PN 035 - 10/15/2004 - SPECIAL PROVISIONS OF FEDERAL-AID HIGHWAY PROGRAM OF MANUAL 6-4-1-2 SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. GENERAL

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

2. EQUAL EMPLOYMENT OPPORTUNITY POLICY

The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

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

3. EQUAL EMPLOYMENT OPPORTUNITY OFFICE

The contractor will designate and make known to the LPA contracting officer(s) an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable to effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. DISSEMINATION OF POLICY

- a. All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
 - (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.
 - (3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.
- b. In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will the following actions:
 - (1) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

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

5. RECRUITMENT

- a. When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Employment Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women or obligates the contractor to do the same, such implementation violates Executive Order 1 1246, as amended.)

- c. The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. PERSONNEL ACTIONS

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

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

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

7. TRAINING AND PROMOTION

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the "Training Special Provisions" are included in this bid proposal, this subparagraph will be superseded as indicated in said provisions.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. UNIONS

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

- a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- b. The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to ODOT and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive

referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify ODOT.

9. SUBCONTRACTING

- a. The contractor will use his best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from the LPA's personnel.
- b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. RECORDS AND REPORTS

- a. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:
 - (1) the number of minority and non-minority group members and women employed in each work classification on the project;
 - (2) the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force);
 - (3) the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and;
 - (4) the progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
- b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the LPA, ODOT and the Federal Highway Administration.
- c. The contractors will submit to the LPA and ODOT a monthly report for the first three months after construction begins and every month of July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR 139 1. If on-the-job training is being required by "Training Special Provisions," the contractor will be required to furnish Form FHWA 1409.

10. PN 003 - 10/15/2004 - TITLE VI RELATED STATUTES NON-DISCRIMINATION STATEMENT

The LPA, under Title VI of the Civil Rights Act and related statutes, ensures that no person in the LPA, shall on the grounds of race, color, national origin, sex, disability or age be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers.

11. CERTIFICATION OF COMPLIANCE WITH AFFIRMATIVE ACTION PROGRAMS

In accordance with Ohio Administrative Code §9.47, before any Contract is awarded, the LPA will require the Bidder to furnish a valid Certificate of Compliance with Affirmative Action Programs, issued by the State EEO Coordinator dated prior to the date fixed for the opening of bids.

12. PN 020 – 10/17/2008 - NOTICE OF REQUIREMENT OF AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

The Bidder's attention is called to the affirmative action obligations required by the specifications set forth in 23 CFR Part 230, 41 CFR Part 60, Executive Order 11246, Section 503, and the affirmative action provisions of Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) of 1974.

Utilization goals applicable to the project, expressed in percentages, for minority and female participation for each construction craft can be found on ODOT's website at <http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Pages/default.aspx>. These goals are based on 2000 census data and represent the area, per craft, minority and female availability pool.

Minority and female utilization obligations by craft per county (applicable to project):

<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Construction/CountyAvailability-ByTrade.pdf>

Statewide utilization obligations by craft (applicable to the Contractor's statewide workforce):

<http://www.dot.state.oh.us/Divisions/ContractAdmin/Contracts/Construction/StatewideAverages-ByTrade.pdf>

Effective 1/1/08 the New Hire Definition will be as follows:

Individual who has a break in service (not on an employer's payroll) for a period of 60 days or longer and the person affected is not a salaried employee, but belongs to a union craft. If this person is rehired the following Spring (construction industry), that person is to be considered a new hire even though the individual may have worked for the contractor the previous construction season or prior years. Individuals compensated for training or incidental work which does **not cause a break in unemployment compensation**, i.e., paid by voucher check or petty cash, are considered new hires if the individual's break in service is 60 days or longer.

Effective 4/1/09:

A new hire shall be associated with the first project worked for that contractor regardless of whether it is public or private. When reporting new hires the contractor shall identify that employee as a new hire on that specific project only. Subsequent work, barring a break in service of 60 days or more, would **not** qualify the employee as a new hire for that contractor.

The Contractor's compliance shall be based on the implementation of affirmative action obligations required by the specifications set forth in 23 CFR Part 230, and its good faith efforts to meet these obligations. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and females on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the affirmative action obligations shall be a violation of the contract and regulations in 23 CFR Part 230. The good faith efforts put forth by the contractor will be measured against the total work hours performed. Under FHWA, ODOT is the authority tasked with ensuring that the contractor adheres to the aforementioned regulations. In addition to complying with the Required Contract Provisions as outlined in the attached subcontract agreement the Contractor shall provide immediate written notification to the ODOT and the Prime Contractor when referral practices of the union or unions with which the Contractor

has a collective bargaining agreement impede the company's efforts to meet its equal opportunity obligations.

The Office of Federal Contract Compliance Programs (OFCCP) administers and enforces equal employment opportunity laws that apply to Federal government contractors and subcontractors supplying goods and services, including construction, to the Federal Government under 41 CFR Part 60, Executive Order 11246, Section 503, and the affirmative action provisions of VEVRAA. The OFCCP monitors compliance with these laws primarily through compliance evaluations, during which a compliance officer examines the contractor's affirmative action efforts and employment practices. Under Executive Order 11246, the OFCCP may perform contract compliance reviews on contractors involved with federally funded ODOT projects.

Requirements for affirmative action obligations governing OFCCP contract compliance reviews are those listed in the Federal Register for the Economic Area. <http://www.dol.gov/ofccp/TAguides/consttag.pdf> page E-32

The Department of Administrative Services (DAS), Equal Opportunity Division, is responsible for ensuring state contractors implement and adhere to the State of Ohio's affirmative action program pursuant to Ohio Administrative Code (OAC) 123:2-3-02. Specifically, this unit's responsibilities includes the issuance of certificates of compliance under ORC 9.47 and 153.08, conducting project site visits and compliance reviews (desk audits) to ensure contractors utilize minorities and women in the construction trades, as well as maintaining a working environment free of discrimination, harassment and intimidation. The DAS may perform contract compliance reviews on contractors involved with state funded ODOT projects. Requirements for affirmative action obligations governing DAS contract compliance reviews are those listed in the O.A.C. for the Metropolitan Statistical Area in which a project is located. <http://das.ohio.gov/Divisions/EqualOpportunity/ConstructionCompliance.aspx>

All prime and subcontractors regardless on the number of employees or the state contract amount are required to submit monthly utilization reports (Input Form 29) to Ohio Department of Administrative Services covering the contractor's total workforce within the state of Ohio. The reports must be filed electronically by the 10th of each month, beginning with the contract award and continuing until the contractor or subcontractor completes performance of the state contract. <http://das.ohio.gov/Divisions/EqualOpportunity/InputForm29.aspx>

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs, 200 N. High Street, Room 409, Columbus, Ohio 43215, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number of the subcontractor, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the subcontract is to be performed.

13. PN 029 - 10/15/2004 - ON-THE JOB TRAINING (OJT) PILOT PROGRAM

The requirements of this Training Special Provision supersede subparagraph 7b of the Special Provision entitled Special Employment Opportunity Responsibilities, and implements 23 U.S.C. 140(a).

The following must be included as part of the Contractor's equal employment opportunity affirmative action training program:

The Contractor must provide on-the-job training aimed at developing full journey persons in the type or job classification in which they work.

The contractor is not required to have a specific number of trainees assigned to this project. The number of trainees will be distributed among the work classifications on the basis of the Contractor's needs and the

availability of the journey persons in the various classifications. The Contractor will be credited for each trainee employed by him or her who is currently enrolled or becomes enrolled in an approved program.

Training and upgrading of minorities and women toward journey person status is a primary objective of this Training Special Provision. Accordingly, the Contractor must make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. This training commitment is not intended, and will not be used, to discriminate against any applicant for training, regardless of whether the applicant is a member of a minority group or not.

No employee will be employed as a trainee in any classification in which he or she has successfully completed a training course leading to journey person status or in which he or she has been employed as a journey person. The Contractor must satisfy this requirement by including appropriate questions in the employee's application or by other suitable means. Regardless of the method used, the Contractor's records must document the findings in each case.

The minimum length and type of training for each classification will be established in the training program selected by the Contractor.

No payment by the LPA will be made to the Contractor for providing this training. However, if the Contractor fails to provide adequate training and cannot show good faith efforts on its part to provide adequate training, it will be subject to a formal compliance review to determine the Contractor's efforts in meeting the EEO laws and regulations.

The Contractor must provide the following reports:

1. CR1 Report
 - A. To be completed on each trainee
 - B. To be filled out at the start of training and finish of training or at the end of the year, whichever comes first
 - C. To be submitted to the ODOT District in which the Contractor's home office is located.
2. Tracking will be on an annual basis. The Contractor must submit the subsequent CR1 to the ODOT District in which the Contractors home office is located.

The prime or subcontractor conducting the training must be involved in at least one Federal project per calendar year in order to get FHWA training credit. Participation in the OJT Program is not project or contract specific.

All Contractors are encouraged to participate in the OJT program. Such a program will be considered when examining the contractor's Good Faith Efforts toward meeting its contractual affirmative action obligations.

All Contractors shall submit their own Training Program or Apprenticeship Certificate, for approval, to the ODOT District in which the company's home office is located.

All OJT Trainees must have the appropriate certification. Apprenticeship Certificates can be obtained from the State of Ohio, Bureau of Apprenticeship and Training. The union apprenticeship agreement is not acceptable verification of an apprentice's enrollment in a union sponsored training program. A copy of the Apprenticeship Certificate along with a statement indicating the number of months/years the employee has been in the apprenticeship program must be submitted to the ODOT EEO Coordinator in the company's home district and to the prevailing wage coordinator in the district responsible for the project within 90 days of the apprentice beginning work on the project.

14. PN 059 - 10/15/2004 - 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 for 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 Determination Wage and Hour
Division
U. S. Department of Labor
200 Constitution Avenue, N.W. Washington, D. C. 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, D. C.
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 requester 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, D. C.
20210

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

15. PN 061 – 07/09/2009 - WAGE SCALE ON ALL FEDERAL-AID PROJECTS

The wage rates for this project were determined by the Secretary of Labor in accordance with Federal-Aid requirements. LPA must formally incorporate into contract documents.

Contractors shall use only the classifications and wage rates set forth in the United States Department of Labor (USDOL) wage decision found at website noted below on payrolls submitted to the District Office. Additionally, please note that the wage modification in effect at the time of the project sale date, shall be used by all contractors.

This USDOL wage decision may be viewed, by accessing the United States Department of Labor

(USDOL) website at:

<http://www.wdol.gov/dba.aspx#3>

This contract requires the payment of the total of the basic hourly rates plus the fringe benefits payments for each classification in accordance with the following regulations which by reference are made part of this contract:

1) The U.S. Department of Labor Regulations, Title 29, Subtitle A, Part 5, Sections 5.5, 5.31, and 5.32, most recent revision at contract execution.

Form FHWA-1273 (most recent revision at contract execution) Part IV. Payment of Predetermined Minimum Wage and Part V. Statements and Payrolls.

The failure to pay prevailing wages to all laborers and mechanics employed on this project, shall be considered a breach of contract. Such a failure may result in the termination of the contract and debarment.

The Contractor and all subcontractors shall pay all wages and fringe benefits by company check. All payroll records and canceled pay checks shall be maintained for at least three years after final acceptance as defined in section 109.12 of the Ohio Department of Transportation Construction and Materials Specifications. The Contractor's and all subcontractors payroll records and canceled pay checks shall be made available for inspection by the Department and the U.S. Department of Labor, upon request, anytime during the life of the contract, and for three years thereafter by the U.S. Department of Labor. Additionally, the Contractor and all subcontractors shall permit such representatives to interview any employees during working hours while the employee is on the job.

The wage and fringe rates determined for this project shall be posted by the Contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers.

The Contractor and all subcontractors shall submit to the District Construction Office, certified payrolls each week beginning three weeks after the start of work. These payrolls shall be on a Form WH-347 or equivalent and shall show the following:

Employee name, address, classification, and hours worked.

2. The basic hourly and overtime rate paid, total pay, and the manner in which fringe benefit payments have been irrevocably made.
3. The project number and pay week dates.
4. Original signature of a company officer on the certification statement.

Additionally, a copy of the "Apprentice Certification" obtained from the Ohio State Apprenticeship Council, must accompany all certified payrolls submitted for all apprentices working on this project.

Please be aware that it is ultimately the responsibility of the Contractor to ensure that all laws relating to prevailing wages in the USDOL Regulations, Title 29, parts 1 and 5, are strictly adhered to by all subcontractors on the project.

If the Contractor or any subcontractor fails to comply with any of the provisions contained in this proposal note, the Department may terminate the contract, debar the Contractor or Subcontractor and/or withhold or suspend pay estimates after written notice and a reasonable opportunity to comply has been provided.

The applicable wage and fringe rates for this project are to be incorporated in their entirety as an attachment to the executed contract.

16. LIMITATION ON USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective bidder also agrees by submitting his or her bid proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

17. PN 045 - 10/15/2004 - NON -COLLUSION AFFIDAVIT

In accordance with Title 23 United States Code, Section 112 and Ohio Revised Code, Chapter 1331 et. seq; and Sections 2921.11 and 2921.13, the bidder hereby states, under penalty of perjury and under other such penalties as the law provides, that he or his agents or employees have not entered either directly or indirectly into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. Execution of this proposal on the signature portion thereof shall constitute also signature of this Non-Collusion Affidavit as permitted by title 28 United States Code, Section 1746.

REPORTING BID RIGGING

To report bid rigging activities call: 1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

18. PN 014 - 10/15/2004 - DRUG-FREE WORKPLACE

The prime contractor agrees to comply with all applicable state and federal laws regarding drug-free workplace. The prime contractor shall make a good faith effort to ensure that all its employees, while working on this project, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

The prime contractor shall also require that this contractual obligation be placed in all subcontractor and materialman contracts that it enters into and further requires that all subcontractors and materialmen place the same contractual obligations in each of their lower tier contracts.

19. PN 034 - 05/25/2011 – DRUG FREE SAFETY PROGRAM

During the life of this project, the Contractor and all its Subcontractors, that provide labor on the Project site, must be enrolled in and remain in good standing in the Ohio Bureau of Worker's Compensation ("OBWC") Drug-Free Safety Program ("DFSP") or a comparable program approved by the OBWC.

In addition to being enrolled in and in good standing in an OBWC-approved DFSP or a comparable Drug Free Workplace Program ("DFWP") approved by the OBWC, the LPA requires each Contractor and Subcontractor that provides labor, to subject its employees who perform labor on the project site to random drug testing of 5 percent of its employees. The random drug testing percentage must also include the on-site supervisors of the Contractors and Subcontractors. Upon request, the Contractor and Subcontractor shall provide evidence of required testing to the LPA.

Each Subcontractor shall require all lower-tier Subcontractors that provides labor on the project site with whom the Subcontractor is in contract for the Work to be enrolled in and be in good standing in the OBWC DFSP or an OBWC-approved DFWP prior to a lower-tier Subcontractor providing labor at the Site.

The LPA will declare a bid non-responsive and ineligible for award if the Contractor is not enrolled and in good standing in the Ohio Bureau of Workers' Compensation's DFSP Discount Program or a similar program approved by the Bureau of Workers' Compensation within 8 days of the bid opening. Furthermore, the LPA will deny all requests to sublet when the subcontractor does not comply with the provisions of this proposal note.

Failure of the Contractor to require a Subcontractor to be enrolled in and be in good standing in the OBWC DFSP or an OBWC-approved DFWP prior to the time that the Subcontractor provides labor at the Site, shall result in the Contractor being found in breach of the Contract and that breach shall be used in the responsibility analysis of that Contractor or the Subcontractor who was not enrolled in a program for future contracts with the State for five years after the date of the breach.

20. OHIO WORKERS' COMPENSATION COVERAGE

The Contractor must secure and maintain valid Ohio workers' compensation coverage until the project has been finally accepted by the Ohio Department of Transportation. A certificate of coverage evidencing valid workers' compensation coverage must be submitted to the LPA before the contract will be executed by the LPA..

The Contractor must immediately notify the LPA, in writing, if it or any subcontractor fails or refuses to renew their workers' compensation coverage. Furthermore, the Contractor must notify the LPA, in writing, if its or any of its subcontractor's workers' compensation policies are canceled, terminated or lapse.

The failure to maintain valid workers' compensation coverage shall be considered a breach of contract which may result in the Contractor or subcontractor being removed from the project, withholding of pay estimates and/or termination of the contract.

21. PN 038 - 10/15/2004 - UNRESOLVED FINDING FOR RECOVERY

The Contractor affirmatively represents to the LPA that it is not subject to a finding for recovery under Ohio Revised Code §9.24, or that it has taken the appropriate remedial steps required under §9.24 or otherwise qualifies under that section. The Contractor agrees that if this representation is deemed to be false, the contract shall be void ab initio as between the parties to this contract, and any funds paid by the state hereunder shall be immediately repaid to the LPA, or an action for recovery may be immediately commenced by the LPA and/or for recovery of said funds.

22. PN 039 - 10/15/2004 - ASSIGNMENT OF ANTITRUST CLAIMS IN STATE CONTRACT LANGUAGE

The Contractor should recognize that in actual economic practice, overcharges resulting from antitrust violations are usually borne by ODOT and/or the LPA. As consideration for the Award of the Contract and intent to be legally bound, the Contractor acting herein by and through the person signing this contract on behalf of the Contractor as a duly authorized agent, hereby assigns, sells, conveys, and transfers to ODOT and/or the LPA any and all right, title and interest to any and all claims and causes of action the Contractor now has or hereafter requires under state or federal antitrust laws provided that the claims or causes of action related to the goods or services that are the subject to the contract. In addition, the Contractor warrants and represents that it will require any and all of its subcontractors and first tier suppliers to assign any and all federal and state antitrust claims and causes of action to ODOT and/or the LPA. The provisions of this article shall become effective at the time the LPA executes this contract without further acknowledgment by any of the parties.

All contracting entities shall assign their rights and responsibilities to ODOT and/or the LPA for all antitrust claims and causes of action regarding subcontractors.

23. PN 024 - 10/15/2004 - US ARMY CORPS OF ENGINEERS AND OHIO ENVIRONMENTAL PROTECTION AGENCY PERMITS

The above referenced permits are incorporated and made a part of this contract as special provisions incorporated herein. Therefore, in the event that the Contractor or its agents refuse or fail to adhere to the requirements of the 404 Permit, and/or the NPDES Stormwater Permit and as a result an assessment or fine is made or levied against the Ohio Department of Transportation and/or the LPA, the Contractor shall reimburse ODOT or the LPA within thirty (30) calendar days of the notice of assessment or fine or the LPA or ODOT may withhold the amount of the fine from the Contractor's next pay estimate. All money collected or withheld from the Contractor shall be delivered to the permitting agencies issuing the assessment or fine.

These fines are not to be construed as a penalty but are liquidated damages to recover costs assessed against the LPA and/or ODOT due to the Contractor's refusal or failure to comply with the permits.

The Contractor shall make all necessary or required adjustments to the Storm Water Pollution Plan or plan quantities to adhere to the above permits and shall be paid in accordance with the contract. The Engineer will make the weekly and rainfall inspections of the work as required by the NPDES.

24. PN 007 - 10/15/2004 - TRUCK LEASING (Required if DBE goal on the project)

The Code of Federal Regulations Title 49, Section 26.55(d) (4) (5) (6) governs trucking operations. This section states that the Disadvantaged Business Enterprise (DBE) may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE will receive credit for only the fee or commission it receives as a result of the lease agreement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE. The law requires that a lease must indicate that the DBE has exclusive use of and control over the truck for credit to be accorded to the DBE. This does not

preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

In lieu of a truck owner displaying the name and identification number of the DBE, the truck owner shall be required to furnish a photocopy of the lease agreement, thereby fulfilling the rule without causing undue hardship on any entity.

Credit for expenditures with DBEs for materials or supplies toward the DBE goal is described as follows:

1. When the materials or supplies are obtained from a DBE manufacturer the prime contractor may receive credit for 100 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
2. When the materials or supplies are purchased from a DBE regular dealer or supplier the prime contractor may receive credit for 60 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a regular dealer or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

For subcontract agreement (C-92) purposes the following definitions will be used:

Install - DBE contractor who obtains goods, materials and supplies and fixes in place, for use, the same goods, materials and supplies. (e.g., DBE contractor obtains and fixes in place re-bar on project site). Must spend 20% or more time on project per day. 100% credit toward prime's DBE goal.

Stockpiling - DBE Contractor/Trucker who delivers materials, goods, or supplies to project site. 60% credit toward prime's DBE goal.

Tailgating - DBE Contractor/Trucker who delivers and installs materials, goods, or supplies to project site. Must spend 20% or more time on project per day. 100% credit toward prime's DBE goal.

25. PN 013 - 6/23/2009 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS (Required if DBE goal on the project)

It is the policy of the Ohio Department of Transportation that Disadvantaged Business Enterprises (DBEs) shall have equal opportunity to compete for and perform subcontracts which the Contractor enters into pursuant to this contract. The Contractor must use its best efforts to solicit bids from and to utilize DBE subcontractors with meaningful minority groups and female representation among their employees. Consequently, the requirements of Title 49 CFR Part 26 and Ohio Revised Code §5525.011 apply to this contract. **The Contractor must ensure that the DBE subcontractor(s) is performing a "commercially useful function" as defined in CFR 26.55.**

The percentage indicated on the front cover of this bid document is the percent of the awarded Contractor's bid which must be subcontract to certified ODOT DBE firms. The percentage goal may be met if the awarded Contractor is DBE certified.

In order to be assured that the Contractor complies with this contract requirement the Contractor shall provide certified payrolls from its DBE subcontractors where appropriate. When the Contractor utilizes a service, for example trucking, to satisfy a part or its entire contractual goal, the Contractor, when requested, must provide a copy of each canceled check issued to the DBE service provider until the goal amount is

reached. The LPA shall total the amounts of the canceled checks and compare that total to the subcontract agreement by the parties and the C-92 issued to the Contractor for the work to be performed by the DBE subcontractor.

WAIVER PROCESS FOR DBE GOAL

The Contractor must document the progress and efforts being made in securing the services of DBE subcontractors. In the event the Contractor is unable to meet the DBE Goal placed on this Local Let project, a request for a waiver of all or part of the goal may be made. The written request must indicate a good faith effort was made to meet the goal and be sent to the LPA contracting authority. The LPA forwards the request with recommended action to the ODOT District. The ODOT District then makes recommendation and forwards the request to the Administrator, Office of Contracts, 1980 West Broad Street, Columbus, Ohio, 43223. There will be no extension of time for the project granted if the Contractor wishes to avail himself of this process. If an item of work subcontracted to a DBE firm is non-performed by LPA or the subject of an approved VECP, the Contractor may request a waiver for the portion of work excluded.

The Contractor must provide the following information and documentation when requesting a DBE goal waiver:

1. Dollar value and % of DBE goal (based on the awarded sale amount of the contract). Dollar value and % of waiver request.
2. Signed copy of each subcontract or purchase order agreement between the prime and DBE subcontractor utilized in meeting the contract goal.
3. Copy of dated written communication, fax confirmation, personal contact, follow up and negotiation with the DBE's. At least one follow up phone call is required for those contractors who are non-responsive to fax or letter solicitation.
4. Copy of dated written communication and/or fax confirmation that bidder solicited and provided DBE's with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.
5. Copy of dated written communication and/ or fax confirmation of each noncompetitive DBE quote that includes the dollar value of each reference item and work type. Documentation must be provided which will offer comparison between quotes deemed noncompetitive and those quotes accepted.
6. Copy of dated written communication and/ or dated fax confirmation of DBE's that were not interested in providing a quote for the project.
7. Documentation of all negotiating efforts and reason for rejecting bids.
8. Documentation of good faith efforts (GFE) to meet the DBE subcontract goal, by looking beyond the items typically subcontract or consideration of subcontracting items normally performed by the prime as a way to meet the DBE goal.

ODOT Office of Civil Rights will review the submitted documentation and issue a written decision to the Contractor within ten (10) business days. The Contractor may request administrative reconsideration within 14 days of being informed that it did not perform a GFE. The Contractor must make this request in writing to the following:

Ohio Department of Transportation Attention: Office
of Contracts 1980 West Broad Street Columbus, Ohio
43223

The reconsideration official will not have played any role in the original determination that the contractor did not document sufficient good faith effort.

As part of this reconsideration, the contractor will have the opportunity to provide written documentation or an argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. ODOT will send the contractor a written decision on reconsideration explaining the basis for finding that the contractor did or did not meet the goal or make adequate good faith efforts. The result of the reconsideration process is not administratively appealable to the US Department of Transportation. However, it is appealable to the Franklin County Court of Common Pleas.

SANCTIONS

The LPA will issue sanctions if the Contractor chooses not to request a waiver, the Contractor fails to comply with the contract requirements and/or fails to demonstrate the necessary good faith effort.

The LPA may impose any of the following sanctions:

- (1) letter of reprimand;
- (2) liquidated damages computed up to the amount of goal dollars not met;
- (3) cross-withhold from future projects;
- (4) contract termination; and/or
- (5) other remedies available by law including suspension, revocation, and/or debarment.

Factors to be considered in issuing sanctions include, but are not limited to:

- (1) the magnitude and the type of offense;
- (2) the degree of the Contractor's culpability;
- (3) any steps taken to rectify the situation;
- (4) the Contractor's record of performance on other projects including, but not limited to:
 - a. annual DBE participation over DBE goals;
 - b. annual DBE participation on projects without goals;
 - c. number of complaints ODOT has received from DBEs regarding the Contractor;
and
 - d. the number of times the Contractor has been previously sanctioned by the ODOT; and
- (5) whether the Contractor falsified, misrepresented, or withheld information.

26. PN - 031 - 10/15/2004 - AFFIDAVIT OF SUBCONTRACTOR PAYMENT (Required if DBE goal on the project)

The Code of Federal Regulations 49, 26.37(b), requires the LPA to monitor and verify that work committed to Disadvantaged Business Enterprise (DBE) firms at contract award is actually performed by the DBE's. Additionally, the LPA is required to report the DBE participation on each project, including all work, materials or service sublets. Therefore, it is the LPA's responsibility to discern whether payments are made to DBE firms. An affidavit is to be completed and signed by the contractor within 15 days of the completion of the project. The affidavit seeks to verify actual payments made to DBE firms on the project. Each DBE firm must verify the actual payment amount.

The blank spaces in the affidavit must be filled in correctly, where indicated. The affidavit must be signed by the prime contractor and subcontractor, or by the subcontractor and DBE sub-contractor, if applicable. By signing the affidavit, the noted firm agrees that the payment amount recorded is true and accurate as of the payment time period.

Completed and signed affidavit shall be mailed to the Ohio Department of Transportation, Office of Contracts, DBE Services section, 1980 West Broad Street, Columbus, Ohio 43223.

27. WAIVER OF CM&S 614.03

ODOT's 2013 Construction and Material Specifications section 614.03, third paragraph, does not apply to any project which is not physically located on the National Highway System (NHS), and/or does not impact NHS traffic in any way.

28. ODOT AS OBLIGEE ON BOND

The contractor shall furnish a performance and payment bond in an amount at least equal to 100 percent of the estimate as security for the faithful performance of its contract. In addition to the project Owner, ODOT shall be named as an obligee.

29. NON-DISCRIMINATION PROVISIONS

1) **Compliance with Regulations:** The CONTRACTOR will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (hereinafter "U.S. DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the CONTRACTOR will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(2) **Nondiscrimination:** The CONTRACTOR, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, or disability, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONTRACTOR will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(3) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential subcontractor, or supplier will be notified by the CONTRACTOR of the CONTRACTOR's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

(4) **Information and Reports:** The CONTRACTOR will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or the Federal Highway Administration (hereinafter "FHWA") to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, the CONTRACTOR will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the CONTRACTOR's noncompliance with the nondiscrimination provisions of this contract, the LPA will impose such contract sanctions as it or STATE / FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the CONTRACTOR under the contract until the CONTRACTOR complies, and/or
- (b) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The CONTRACTOR will include the provisions of paragraphs (1) through (5) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONTRACTOR will take such action with respect to any subcontractor procurement as the LPA or STATE / FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor, or supplier as a result of such direction, the CONTRACTOR may request the LPA / STATE to enter into such litigation to protect the interests of the LPA and the STATE, and, in addition, the LPA / STATE may request the United States to enter into such litigation to protect the interests of the United States.

29. REQUIRED CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS (Electronic Form FHWA 1273 – May 1, 2012)

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

ATTACHMENTS

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

I. GENERAL

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

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

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services,

purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

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

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

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

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

II. NONDISCRIMINATION

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

have the responsibility for and must be capable of effectively

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

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

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

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

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

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

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

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

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will

01/31/2013 Revision administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

provisions.

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

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

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

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

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

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

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

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

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

such training and promotion.

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

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

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

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

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

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

6. Training and Promotion:

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

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

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

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

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this contract.

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

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

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

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

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

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

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

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

segregated use by written or oral policies nor tolerate such

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

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

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

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

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

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

- (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
- (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
- (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

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

III. NONSEGREGATED FACILITIES

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

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such

01/31/2013 Revision use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

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

contract for a class of laborers or mechanics includes a

determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

c. Whenever the minimum wage rate prescribed in the

01/31/2013 Revision 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.

or trainees under approved programs shall maintain written evidence of

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

2. Withholding

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

3. Payrolls and basic records

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

the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits,

apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

01/31/2013 Revision Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

01/31/2013 Revision This provision is applicable to all Federal-aid construction contracts on the National Highway System.

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

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

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

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

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

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

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

contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

principals are not suspended, debarred, or otherwise

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

01/31/2013 Revision ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

have been paid or will be paid to any person for influencing or

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

b. If any funds other than Federal appropriated funds

attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

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

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

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

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

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

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

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

01/31/2013 Revision

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

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

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

The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or re

OHIO DEPARTMENT OF TRANSPORTATION



District 4, 2088 South Arlington Road, Akron, Ohio 44306

(330) 786-3100 - (800) 603-1054
<http://www.dot.state.oh.us>

Ted Strickland, Governor

Jolene M. Molitoris, Director

Eric M. Czetli
District Deputy Director

August 18, 2010

Dan Moeglin, City Engineer
City Service Center
Building A
2436 30th Street NE
Canton, OH 44705

SUBJECT: STA-12th St; PID 85299; LPA Agreement No. : 22719

Dear Mr. Moeglin:

Please find enclosed for your records one original LPA Federal Project Agreement for the subject project executed on August 17, 2010.

To assist us in tracking the status of this project, we request that you provide this office with monthly status reports for our review and files. These reports will be utilized to coordinate our efforts and assist you in successfully completing this Project. The Department is committed to maintaining project schedules including those administered by local agencies. If you feel this project status schedule not appropriate, please contact this office in advance to make other arrangements.

Formal advertisement for construction of the Project cannot begin until we have approved your PS & E package and provided you authorization per Section 7.1 of the enclosed agreement.

If you have any questions pertaining to this agreement or other Project matters, please contact me at (330) 786.4923.

Respectfully,

Jack L. Noble, P.E.
District 4 Planning and Programs Administrator

A handwritten signature in cursive script, appearing to read "Christine Surma".

Christine Surma
Planning LPA Liaison

enclosure

c: Office of Local Assistance(w/orig.agreement), A. Zumbo, File(2)

CFDA 20.205

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, hereinafter referred to as ODOT, 1980 West Broad Street, Columbus, Ohio 43223 and the The City of Canton, hereinafter referred to as the LPA, City Service Center Building, 2436 30th St. NE, Canton OH 44705.

1. PURPOSE

- 1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (hereinafter referred to as FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.
- 1.2 Section 5501.03 (C) of the Ohio Revised Code provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.
- 1.3 The safety improvements to intersection of 12th St. and Market Ave. N. including installation of turn lanes, and a coordinated signal system (hereinafter referred to as the PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.
- 1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES

- 2.1 This Agreement is authorized by the following statutes and/or policies, which are incorporated in their entirety:
 - a. Section 5501.03(C) of the Ohio Revised Code;
 - b. ODOT Policy No. 25-001(P), Development Process Policy for Locally-Administered Transportation Projects;
 - c. ODOT Locally Administered Transportation Projects, Manual of Procedures; and
 - d. National Transportation Act, Title 23, U.S.C.; 23 CFR 635.105.
- 2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

3. FUNDING

- 3.1 The total cost for the PROJECT is estimated to be \$ 11,727,000 as set forth in Attachment 1. ODOT shall provide to the LPA 80 percent of the eligible preliminary engineering costs, up to a maximum of \$544,292 in Federal safety funds; 90 percent of the eligible right of way costs, up

to a maximum of \$241,200 in Federal safety funds; 80 percent of the eligible right of way costs, up to a maximum of \$53,600 in Federal CMAQ funds; 80 percent of the eligible right of way costs, up to a maximum of \$536,000 in Federal STP funds; 80 percent of the eligible construction costs, up to a maximum of \$444,947 in Federal CMAQ funds; 80 percent of the eligible construction costs, up to a maximum of \$500,000 in Federal TE funds; 90 percent of the eligible construction costs, up to a maximum of \$1,819,171 in Federal safety funds; 80 percent of the eligible construction costs, up to a maximum of \$5,470,884 in Federal STP funds; and urban paving funds for construction, up to a maximum of \$159,000. These maximum amounts reflect the funding limits for the PROJECT set by the applicable Program Manager[s]. Unless otherwise provided, funds through ODOT shall be applied only to the eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.

- 3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns and contractor claims.

4. PROJECT DEVELOPMENT AND DESIGN

- 4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.

- 4.2 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

- 4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The LPA make use of ODOT's Location and Design Manual (L&D), or the appropriate AASHTO publication. Even though the LPA may use its own standards, ODOT may require the LPA to use a design based on the L&D Manual for projects that contain a high crash rate or areas of crash concentrations. Where the LPA has adopted ODOT standards for the PROJECT, the LPA shall be responsible for ensuring that any ODOT standards used for the PROJECT are current and/or updated. The LPA shall be responsible for periodically contacting the ODOT District LPA Coordinator or through the following Internet website for any changes or updates: www.dot.state.oh.us/drrc.)

- 4.4 The LPA shall either designate an LPA employee, who is a registered professional engineer, to act as the PROJECT Design Engineer and serve as the LPA's principal representative for attending to PROJECT responsibilities, or engage the services of a pre-qualified ODOT consultant who has been chosen using a Qualification-Based Selection (QBS) process as required pursuant to Ohio Revised Code sections 153.65 through 153.71. The pre-qualified list is available on the ODOT web page at <http://www.dot.state.oh.us/CONTRACT>.)

- 4.5 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization to Advertise" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

- 4.6 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

5. ENVIRONMENTAL RESPONSIBILITIES

- 5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act and related

regulations, including the requirements of the National Historic Preservation Act; and for securing all necessary permits.

- 5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at <http://www.dot.state.oh.us/CONTRACT>. If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 5.3 ODOT shall be responsible for the review of all environmental documents and reports, and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.
- 5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements.
- 5.5 The LPA shall require its consultant, selected to prepare a final environmental document pursuant to the requirements of the National Environmental Policy Act, to execute a copy of a disclosure statement specifying that the consultant has no financial or other interest in the outcome of the PROJECT.
- 5.6 The LPA shall provide a letter indicating the proposed Best Management Practices (BMPs) to be utilized for post construction storm water management in accordance with the Ohio EPA National Pollutant Discharge Elimination System (NPDES) Construction General Permit. If no BMPs are proposed, a letter stating concurrence is required from the Ohio EPA.

6. RIGHT OF WAY/ UTILITIES/ RAILROAD COORDINATION

- 6.1 All right-of-way acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (hereinafter referred to as Uniform Act), any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT.
- 6.2 If existing and newly-acquired right of way is required for this PROJECT, the LPA shall certify that the all right of way has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. As specified in ODOT's Real Estate Policy and Procedures Manual, Section 5202.01-II-(B), any LPA staff who perform any real estate functions shall be prequalified by the ODOT's Office of Real Estate. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA. Likewise, a consultant hired to perform right of way acquisition work can not also perform both the relocation and relocation review functions. Relocation review shall be performed by an independent staff or fee reviewer.
- 6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.
- 6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and State rules, policies and guidelines issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions nor shall the LPA hire a sub-

consultant for relocation and another sub-consultant for relocation review. Relocation review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA.

- 6.5 The LPA shall provide the ODOT District Office with its certification that all right of way property rights necessary for the PROJECT are under the LPA's control, that all right of way has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with PROJECT construction activities. ODOT shall make use of the LPA's Right of Way Certification, as well as evaluate the LPA's and/or consultant's performance of the PROJECT real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.
- 6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a utility relocation agreement with each utility prior to the letting of construction. No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.
- 6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval.
- 6.8 The LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the Ohio Revised Code regarding all activities relating to Railroad-Highway projects.

7. ADVERTISING, SALE AND AWARD

- 7.1 The LPA shall not advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.
- 7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Coordinator as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.
- 7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Advertisements shall be in accordance with local bidding requirements. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The PROJECT shall be advertised for three (3) consecutive weeks. The period between the first legal advertising date and the bid opening date shall be a minimum of twenty-one (21) calendar days. The LPA shall submit to ODOT, after issuance but prior to bid opening, any addendum issued during the advertisement period that change estimates or materials. ODOT shall approve such addendum for project eligibility prior to opening the bids. All addenda shall be distributed to all potential bidders prior to opening bids and selling the contracts.
- 7.4 The LPA shall incorporate ODOT's LPA Bid Template in its bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts, as well as appropriate subcontracts and purchase orders.

- 7.5 In accordance with Executive Order 2002-13T, the LPA shall require the contractor to be enrolled in, and in good standing with, the Drug-Free Workplace Program (DFWP) or a similar program approved by the Bureau of Workers' Compensation, and require the same of any of its subcontractors.
- 7.6 Only pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in force **at the time of bidding, at the time of award, and through the life of the construction contract**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement. The "prime" contractor must perform no less than 30 percent of the total original contract price. The 30 percent prime requirement does not apply to design-build contracts.
- 7.7 In accordance with Section 153.54, et. seq. of the Ohio Revised Code, the LPA shall require that the selected contractor provide a performance and payment bond in an amount at least equal to 100 percent of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond.
- 7.8 Before awarding a contract to the selected contractor, the LPA shall verify either that the contractor is not subject to a finding for recovery under R.C. 9.24, or that the contractor has taken the appropriate remedial steps required under R.C. 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at <http://www.auditor.state.oh.us/WhatsNew/FFR/>. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all federal funding commitments.
- 7.9 The LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.
- 7.10 After analyzing all bids for completeness, accuracy, and responsiveness, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this agreement, if applicable.

8. CONSTRUCTION CONTRACT ADMINISTRATION

- 8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC sections 153.65 through 153.71.
- 8.2 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.
- 8.3 The Federal-aid Highway Program operates on a reimbursement basis. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the

expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed on a daily basis as the items of work are completed and accepted.

- 8.4 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio. ODOT shall pay the Contractor or reimburse the LPA within thirty (30) days of receipt of the approved Contractor's invoice from the LPA.
- 8.5 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of Chapter 1311 of the Ohio Revised Code may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the lien is resolved.
- 8.6 Payment or reimbursement to the LPA shall be submitted to:
- Dan Moeglin, PE, SI
City Service Center Building,
2436 30th St. NE,
Canton OH 44705
- 8.7 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all federal funding commitments.
- 8.8 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and if necessary, unilaterally modify any other term of this Agreement in order to preserve its federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT in order to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.
- 8.9 Any right, claim, interest, and/or right of action, whether contingent or vested, of the LPA, arising out of or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the "Claim"), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in and to the Claim and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any Claim. The LPA further authorizes ODOT to sue, compromise, or settle any such Claim. It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all of the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim including requests for information and/or documents and/or to testify.
- 8.10 After completion of the PROJECT and in accordance with Title 23 United States Code 116 and applicable provisions of the Ohio Revised Code, the LPA shall maintain the PROJECT to design

standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years, unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any Federally-funded programs.

9. CERTIFICATION AND RECAPTURE OF FUNDS

- 9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the State for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by Ohio Revised Code section 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.
- 9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it had received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the project, any funds recovered from the performance and payment bond as required under section 7.8 shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

- 10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, age, or disability as that term is defined in the American with Disabilities Act. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, ancestry, age, or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.
- 10.2 The LPA agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex, national origin, ancestry, age, or disability. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such PROJECT work.
- 10.3 For any project in which the Engineer's Estimate exceeds \$500,000, the LPA shall ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, will have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. To meet this requirement, subcontractors who claim to be DBEs must be certified by ODOT. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

Disadvantaged Business (DBE) Requirement. DBE participation goals (subcontracts, materials, supplies) have been set on this project for those certified as DBEs pursuant to Title 23, U.S.C. section 140(c) and 49 CFR, Part 26, and where applicable qualified to bid with ODOT under Chapter 5525 of the Ohio Revised Code.

WAIVER PROCESS FOR DBE GOALS

In the event the Contractor is unable to meet the DBE Goal placed on this project, a request for waiver of all or part of the goal may be made to the Ohio Department of Transportation through the LPA. The written request must indicate that a good faith effort was made to meet the goal and be sent to ODOT's Office of Contracts with a copy to the ODOT District LPA Coordinator. Central Office will review the submitted documentation and decide the issue within ten (10) business days. There will be no extension of the time for the project granted if the prime Contractor wishes to avail himself of this process. The LPA will be notified as to the decision.

ODOT shall supply the percentage goal to the LPA upon review of the Engineer's Estimate. The LPA must obtain written, signed documentation from the contractor that the DBE goal has been satisfied prior to executing the contract with the contractor. The LPA, in turn, must provide such documentation to ODOT in order for ODOT to encumber the Federal/State funds.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices or other intellectual properties specifically devised for the PROJECT by its consultants or contractors performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultants and contractors shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices or other intellectual properties, and in providing them to the PROJECT shall relinquish any such protections should they exist.

11.2 The LPA shall not allow its consultants or contractors to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant or contractor has provided for such use by suitable legal agreement with the owner of such copyright, patent or similar protection. A consultant or contractor making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.

11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such failure or neglect are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United

States or State of Ohio or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this agreement with thirty (30) days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with section 12.3 of this Agreement.

- 12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the LPA shall have thirty (30) days from the date of such notification to remedy the default or, if the remedy will take in excess of thirty (30) days to complete, the LPA shall have thirty (30) days to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.
- 12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.
- 12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

- 13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in section 126.30 of the Revised Code.
- 13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

- 14.1 Notice under this Agreement shall be directed as follows:

If to the LPA:	If to ODOT:
Dan Moeglin, PE, SI	ANTHONY ZUMBO, PE, PS
City Service Center Building,	ODOT DISTRICT 4 LPA COORDINATOR
2436 30 th St. NE,	2088 SOUTH ARLINGTON RD.
Canton OH 44705	AKRON OH 44306

15. GENERAL PROVISIONS

15.1 *Audit Requirements:* The LPA shall comply with the audit requirements of 49 CFR Part 18.26 (Federal Single Audit Act) for any and all projects with a total cost of \$500,000 or more.

15.2 *Record Retention:* The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its books, documents, and records relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

15.3 *Ohio Ethics Laws:* In accordance with Executive Order 2007-01S, the LPA, by signing this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws, and (3) will take no action inconsistent with those laws and this order. The LPA understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this contract and may result in the loss of other contracts with the State of Ohio.

15.4 [Conditional] *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.

15.5 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

15.6 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.

- 15.7 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.8 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.
- 15.9 *Signatures:* Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

STA-12TH ST HSP
COUNTY-ROUTE-SECTION

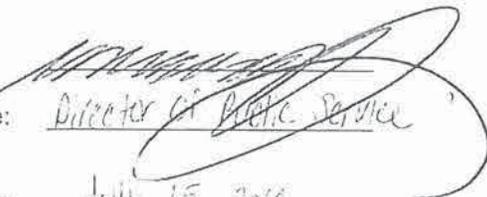
85299
PID NUMBER

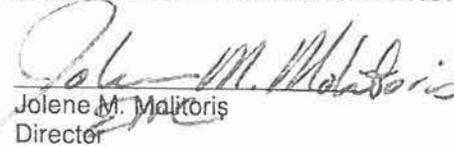
22719
AGREEMENT NUMBER

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA: City of Canton

STATE OF OHIO
OHIO DEPARTMENT OF TRANSPORTATION

By: 
Title: Director of Public Service

By: 
Jolene M. Malitoris
Director

Date: July 15, 2010

Date: 8-17-10

85299
PID NUMBER

22719
AGREEMENT NUMBER

Attachment 1 PROJECT BUDGET – SOURCES AND USES OF FUNDS

USES	LOCAL FUNDS		FFWA FUNDS		STATE FUNDS	
	AMOUNT	%	AMOUNT	%	AMOUNT	%
PE Preliminary develop; environ clearance	\$32,000	20	\$128,000	80	\$0	
PE Preliminary develop; environ clearance	\$32,434	20	\$129,736	80	\$0	
PE final design; construction plans and specs	\$71,639	20	\$286,556	80	\$0	
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION	\$26,800	10	\$241,200	90	\$0	
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION	\$134,000	20	\$536,000	80		
ACQUISITION OF RIGHT OF WAY & UTILITY RELOCATION	\$13,400	20	\$53,600	80		
ADVERTISING, COMPETITIVE BIDDING & CONTRACT AWARD	\$0				\$0	
CONSTRUCTION fund source 1 HSP	\$183,603	10	\$1,652,428	90	\$0	
Const. admin, mat'l testing & inspection	\$18,527	10	\$166,743	90	\$0	
CONSTRUCTION fund source 2 STP	\$1,230,949	20	\$4,923,795	80	\$0	
Const. admin, mat'l testing & inspection	\$136,772	20	\$547,088	80	\$0	
CONSTRUCTION fund source 3 CMAQ	\$0		\$400,452	80	\$100,113	20
Const. admin, mat'l testing & inspection	\$11,124	20	\$44,495	80	\$0	
CONSTRUCTION fund source 4 TE	\$53,613	20	\$214,452	80	\$0	
Const. admin, mat'l testing & inspection	\$12,500	20	\$50,000	80	\$0	
CONSTRUCTION fund source 4 TE	\$0		\$235,547	80	\$58,887	20
Const. admin, mat'l testing & inspection	\$0		\$0		\$0	
	\$1,957,361		\$8,235,000		\$159,000	
						\$11,726,453

With the exception of 'EUWA' or 'State' funds, figures in table represent ESTIMATES only.
Construction inspection costs are estimated at 10% of construction cost.

Attachment 2

DIRECT PAYMENT OF CONTRACTOR

At the direction of the LPA and upon approval of ODOT, payments for work performed under the terms of the Agreement by the LPA's contractor shall be paid directly to the contractor in the prorata share of Federal/State participation. The invoice package shall be prepared by the LPA as previously defined in this agreement, and shall indicate that the payment is to be made to the contractor. In addition, the invoice must state the contractor's name, mailing address and Federal tax ID. Separate invoices shall be submitted for payments that are to be made to the contractor and those that are to be made to the LPA.

We the City of Canton request that all payments for the Federal/State share of the construction costs of this agreement performed by _____
(CONTRACTOR'S NAME)

be paid directly to _____
(CONTRACTOR'S NAME)

Contractor Name:
OAKS Vendor ID:
Mailing Address:

LPA signature

LPA Name: City of Canton
OAKS Vendor ID:
Mailing Address: 218 Cleveland Ave. SW
Canton, Ohio 44702

Approved, ODOT signature

OHIO DEPARTMENT OF TRANSPORTATION

INTER-OFFICE COMMUNICATION

TO: David Griffith, District 4 Safety Review Team Chair

FROM: Michelle May, Safety Program Manager

SUBJECT: Safety Project Applications for April 2008

DATE: May 28, 2008

The Safety Program Committee has reviewed the following applications and has approved or denied funding for these projects based on a variety of criteria including statewide/local priority, countermeasures identified and available funding.

Decision-making this year was particularly difficult. ODOT districts and local governments submitted 46 projects worth \$74 million. We appreciate your efforts to review and submit these applications.

POR Summit St. (200805D04-01)

Description: Upgrade signals, install medians and modify intersections and segments of roadway from Lincoln to Loop Road in Kent.

Decision: APPROVED for signal and pedestrian related improvements only. Please have the project sponsor submit an estimate that provides a breakdown of these costs.

SUM SR-261-16.41 (200805D04-02)

Description: Construct a roundabout at the intersections of Northeast Avenue (SR 261), Howe Road and North Munroe Road (Northeast Six Corners) in Tallmadge.

Decision: Not approved. Other applications had a higher statewide priority.

SUM Cleveland-Massillon Road (200805D04-03)

Description: Improve capacity, upgrade signals and review access management from Shannon Road to I-76 in Norton.

Decision: APPROVED for \$350,000 in PE funds in 2009 for further development. These funds will require a 10% local match. Please return to the committee to request additional funds when a recommended alternative has been selected. Please program these funds using 4HJ7 with the remaining local funds covering the required local match.

STA 12th Street (200805D04-04)

Description: Signal and corridor improvements from Monument Road to Gibbs Road in Canton.

Decision: APPROVED for signal modifications and improvements at 12 and Market Street only. Please have the project sponsor submit an estimate that provides a breakdown of these costs.

STA SR-236-3.16 (200805D04-05)

Description: Improve sight distance at High Mill Road intersection in Jackson Township.

Decision: Not approved. Other applications had a higher statewide priority.

ATB US-20-13.78 (200805D04-06)

Description: Widen US 20 between Ridgewood Ave. (TR388) and Cook Road for addition of a TWLT lane and left turn storage on US 20 at the Orchard Road signal.

Decision: APPROVED for \$1 million in ROW costs for FY 2011 and \$2.5 million in Construction costs for FY 2013. Please program these funds using 4HJ7 at 90% and 4BC7 at 10%.

I am requesting that all new approvals be programmed in Ellis by June 20. The Program Manager must be notified when this is complete and provided a PID number. This will enable us to publish an updated safety program that has been fiscally balanced using Ellis.

If these are locally sponsored projects, the award of these funds is contingent upon the receipt of any outstanding payments owed ODOT for previously completed projects.

Thank you for your submissions. If you have any questions, please contact me at (614) 644-8309.

AGREEMENT AMENDMENT

Agreement No. 22719 is revised as follows. This Agreement Amendment will be inserted into the original agreement under the existing terms and conditions.

3. FUNDING

3.1 ODOT shall provide to the LPA:

80 percent of the eligible **preliminary engineering** costs, up to a maximum of \$292,332 in Federal safety funds;
80 percent of the eligible preliminary costs, up to a maximum of \$434,024 in Federal MPO STP funds;
90 percent of the eligible preliminary engineering costs, up to a maximum of \$251,960 in Federal safety funds;

90 percent of the eligible **right of way** costs, up to a maximum of \$241,200 in Federal safety funds;
80 percent of the eligible right of way costs, up to a maximum of \$1,053,600 in Federal CMAQ funds;
80 percent of the eligible right of way costs, up to a maximum of \$820,000 in Federal STP funds;

80 percent of the eligible **construction** costs, up to a maximum of \$2,819,950 in Federal CMAQ funds;
80 percent of the eligible construction costs, up to a maximum of \$500,000 in Federal TE funds;
90 percent of the eligible construction costs, up to a maximum of \$1,887,208 in Federal safety funds;
80 percent of the eligible construction costs, up to a maximum of \$5,566,890 in Federal STP funds;
and urban paving (District Preservation) funds for construction, up to a maximum of \$500,000.

These maximum amounts reflect the funding limits for the PROJECT set by the applicable Program Manager[s]. Unless otherwise provided, funds through ODOT shall be applied only to the

eligible costs associated with the actual construction of the transportation project improvements and construction engineering/inspection activities.

- 3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all cost overruns and contractor claims.

15. **GENERAL PROVISIONS**

- 15.1 Recovery of Overhead and Fringe Costs: .

The LPA shall select which of the following methods it will use for recovering indirect expenses associated with LPA labor on this project:

- Safe Harbor Rates (30% Fringe, 38% Overhead)
- Actual Costs (Fringe only)
- Current Cost Allocation Plan rate approved by ODOT Office of Audits
- LPA will not seek recovery of costs associated with Fringe and Overhead

The LPA shall meet all timekeeping requirements outlined in 2 CFR Part 225 and the LATP Manual for any labor costs to be eligible for reimbursement with Federal aid funds.

Should the LPA exercise its option to recover indirect costs, it must follow the LATP Manual of Procedures.

- 15.2 *Audit Requirements:* The LPA shall comply with the audit requirements of 49 CFR Part 18.26 which requires non-Federal entities that expend \$500,000.00 or more in a year in Federal awards must have a single or program-specific audit conducted for that year.

- 15.3 *Record Retention:* The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its books, documents, and records relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three years after FHWA approves the LPA's final Federal voucher for reimbursement of PROJECT expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this contract.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

- 15.4 *Ohio Ethics Laws:* LPA agrees that it they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.
- 15.5 [Conditional] *State Property Drug-Free Workplace Compliance:* In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.
- 15.6 *Governing Law:* This Agreement and any claims arising out of this Agreement shall be governed by the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
- 15.7 *Assignment:* Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
- 15.8 *Merger and Modification:* This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.
- 15.9 *Severability:* If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement

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COUNTY-ROUTE-SECTION

85299
PID NUMBER

22719
AGREEMENT NUMBER

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in duplicate as of the day and year first above written.

LPA

By: William B. Soto Date: 3/5/14

ODOT

By: Jerry Wray (AA) Date: 3/18/14
Jerry Wray
Director

APPENDIX

H

OPWC Requirements

The Contractor must comply with all OPWC requirements. However, if requirements overlap with ODOT/Federal Aid requirements, the ODOT/Federal Aid requirements shall supersede OPWC requirements.

OPWC PROPOSAL NOTES – For insertion into Bid Documents (Rev 10/2/12)

1. STEEL PRODUCTS MADE IN THE UNITED STATES

Domestic steel use requirements as specified in Ohio Revised Code §153.011 apply to this project. Copies of §153.011 can be obtained from any of the offices of the department of administrative services or through <http://codes.ohio.gov/orc/153.011>.

2. PREVAILING WAGES ON STATE PROJECTS WITH NO FEDERAL-AID (Should this project contain Federal-aid funds then Federal Prevailing Wages must be paid. Contact the appropriate Federal funding agency for language.)

This contract is subject to Ohio Prevailing Wage Laws, Chapter 4115 of the Ohio Revised Code and the Contractor and all subcontractors shall comply with all provisions contained therein or as otherwise provided by this note. The Contractor guarantees that the prevailing wage scale to be paid to all laborers and mechanics employed on this contract shall be in accordance with the schedule of the prevailing hourly wage and fringe benefits as determined by the Ohio Department of Commerce for the county in which the work is being performed. The failure to pay prevailing wages to all laborers and mechanics employed on this project shall be considered a breach of contract. Such a failure may result in the revocation of the contractor's and/or subcontractor's certificate of qualification and debarment. A schedule of the most current prevailing wage rates may be accessed by logging in/registering with the Ohio Department of Commerce, Labor and Worker Safety Division, Wage and Hour Bureau at the following web address:

<http://198.234.41.198/w3/webwh.nsf/wrlogin/?openform>

The Contractor and all subcontractors shall compensate the employees on this contract at a pay rate not less than the hourly wage and fringe rate listed on the website noted above, for the applicable job classification or as may be modified by the Ohio Department of Commerce, Division of Labor and Worker Safety Wage and Hour Bureau, when new prevailing rates are established.

Overtime shall be paid at one and one-half times the basic hourly rate for any hours worked beyond forty hours during a pay week. The Contractor and all subcontractors shall pay all compensation by company check to the worker and fringe benefit program.

The wage and fringe rates determined for this project or as may be later modified, shall be posted by the Contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers or otherwise made available to the workers. On the first pay date of contract work the Contractor and all subcontractors shall furnish each employee covered by prevailing wage a completed form (WHPW-1512) in accordance with section 4115.05 of the Ohio Revised Code, showing the classification, hourly pay rate, and fringes, and identifying the public authority's Prevailing Wage Coordinator, if such employees are not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor. These forms shall be signed by the Contractor or subcontractor and the employee and kept in the Contractor's or subcontractor's payroll files.

The Contractor and all subcontractors shall submit to the Prevailing Wage Coordinator, certified payrolls on form WHPW-1512 or equivalent, in accordance with sections 4115.07 and 4115.071 (C) of the Ohio Revised Code, three weeks after the start of work and every subsequent week until the completion of the contract. Additionally, a copy of the "Apprentice Certification" obtained from the Ohio State Apprenticeship Council, must accompany all certified payrolls submitted, for all apprentices working on this project. Upon completion of the contract and before the final payment, the Contractor shall submit to the Prevailing Wage Coordinator a final wage affidavit in accordance with section 4115.07 of the Ohio Revised Code stating that wages have been paid in conformance with the minimum rates set forth in the contract. Please be aware that it is ultimately the responsibility of the Contractor to ensure that all laws relating to prevailing wages in Chapter 4115 of the Ohio Revised Code are strictly adhered to by all subcontractors.

The Contractor and all subcontractors shall make all of its payroll records available for inspection, copying

or transcription by any authorized representative of the contracting agency. Additionally, the Contractor and all subcontractors shall permit such representatives to interview any employees during working hours while the employee is on the job.

3. UNRESOLVED FINDING FOR RECOVERY

The Contractor affirmatively represents to the local contracting authority that it is not subject to a finding for recovery under Ohio Revised Code §9.24, or that it has taken the appropriate remedial steps required under §9.24 or otherwise qualifies under that section. The Contractor agrees that if this representation is deemed to be false, the contract shall be void ab initio as between the parties to this contract, and any funds paid by the state hereunder shall be immediately repaid to the local contracting authority, or an action for recovery may be immediately commenced by the local government and/or for recovery of said funds.

4. OHIO WORKERS' COMPENSATION COVERAGE

The Contractor must secure and maintain valid Ohio workers' compensation coverage until the project has been finally accepted by the local contracting authority. A certificate of coverage evidencing valid workers' compensation coverage must be submitted to the local contracting authority before the contract is executed.

The Contractor must immediately notify the local contracting authority, in writing, if it or any subcontractor fails or refuses to renew their workers' compensation coverage. Furthermore, the Contractor must notify the local contracting authority, in writing, if its or any of its subcontractor's workers' compensation policies are canceled, terminated or lapse.

The failure to maintain valid workers' compensation coverage shall be considered a breach of contract which may result in the Contractor or subcontractor being removed from the project, withholding of pay estimates and/or termination of the contract.

5. DRUG-FREE WORKPLACE PROGRAM

In accordance with Ohio Revised Code §153.03 and during the life of this project, the Contractor and all its Subcontractors that provide labor on the Project site must be enrolled in and remain in good standing in the Ohio Bureau of Worker's Compensation ("OBWC") Drug-Free Workplace Program ("DFWP") or a comparable program approved by the OBWC.

6. OHIO PREFERENCE

In accordance with Ohio Revised Code §164.05 (A)(6), to the extent practicable, the Contractor and subcontractor shall use Ohio products, materials, services and labor in connection with this project.

7. BID GUARANTY

In accordance with Ohio Revised Code §153.54, the contractor shall file with the bid a bid guaranty in the form of either: 1) a bond for the full amount of the bid, or 2) a certified check, cashier's check, or letter of credit equal to 10% of the bid.

8. OHIO ETHICS LAW

Contractor agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

9. STATE OF OHIO EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

NOTICE TO CONTRACTORS:

The provisions of the Ohio Administrative Code (OAC) 123:2-3-02 through 124:2-9 regarding Equal Employment Opportunity on State Construction Contracts and State-assisted Construction Contracts, and OAC 123:2-3-02 through 123:2-9 regarding Equal Employment Opportunity and Female Utilization Goals are applicable to this project, and each contractor will be required to comply in all aspects of these provisions.

CERTIFICATE OF COMPLIANCE FOR EEO PURPOSES:

All prime contractors must secure a valid Certificate of Compliance from the Department of Administrative Services, Equal Opportunity Division, prior to execution of a construction contract.

See <http://www.das.ohio.gov/Divisions/EqualOpportunity/CertificateofCompliance/tabid/129/Default.aspx> for instructions for electronic filing.

>>> Does this bidder have a valid Certificate of Compliance? _____ Yes ____ No

>>> If "No" to the above, will this bidder be able to obtain a valid Certificate of Compliance prior to the execution of a contract? _____ Yes ____ No

Bidder must provide a "Yes" answer to one or the other of the above questions. BIDDER'S

AFFIRMATIVE ACTION REQUIREMENTS:

Each prime contract bidder must submit an Affirmative Action Program regarding equal employment opportunity to and receive approval from the State Equal Employment Opportunity Coordinator prior to the bid opening, **OR** the prime contract bidder must evidence within its bid the adoption of the Minority Manpower Utilization Goals and Timetables set forth in "Appendix A" and the Specific Affirmative Action Steps set forth in "Appendix B" of the State Equal Employment Opportunity Bid Conditions.

>>> Has the prime contract bidder prepared and submitted an Affirmative Action Program to the State Equal Employment Opportunity Coordinator and that program has been approved by the State Equal Employment Opportunity Coordinator prior to the bid opening ? _____ Yes ____ No

OR

>>> If "No", with this bid response, the prime contract bidder hereby adopts the Minority Manpower Utilization Goals and Timetables set forth in Appendix "A" and the Specific Affirmative Action Steps set forth in Appendix "B" of the State Equal Employment Opportunity Bid Conditions. _____ Yes ____ No

Bidder must provide a "Yes" answer to one or the other of the above affirmative action alternatives.

BIDDER'S EEO COVENANTS:

Throughout its performance of any contract awarded to it on this State-assisted project, the prime contract bidder agrees to the following covenants:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry or sex. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, national origin, ancestry or sex. Such action shall include, but is not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the prime contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry or sex.

(3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State Administering Agency advising the said labor union or workers' representatives of the contractor's commitments under this covenant and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of the Ohio Department of Administrative Services, Equal Opportunity Division and with the implementing rules, regulations and applicable orders of the State Equal Employment Opportunity Coordinator.

(5) The contractor agrees to fully cooperate with the State Administering Agency, the State Equal Employment Opportunity Coordinator and with any other official or agency, or the State or Federal government which seeks to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under its contract and the contractor shall comply promptly with all requests and directions from the State Administering Agency, the State Equal Employment Opportunity Coordinator and any of the State of Ohio officials and agencies in this regard, both before and during construction.

(6) Full cooperation as expressed in clause (5), above, shall include, but not be limited to, being a witness and permitting employees to be witnesses and complainants in any proceeding involving questions of unlawful employment practices, furnishing all information and monthly utilization work hour reports required by the OAC 123: 2-9-01 and by the rules, regulations and orders of the State Equal Employment Opportunity Coordinator pursuant thereto, and permitting access to its books, records, and accounts by the State Administering Agency and the State Equal Employment Opportunity Coordinator for purposes of investigation to ascertain compliance with such rules, regulations and orders. Specifically, contractors will submit workforce utilization reports to the State Equal Opportunity Coordinator by the 10th of each month. The monthly reports must be electronically submitted through the following website: <http://das.ohio.gov/EOD/CCInputForm29.htm>

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of its contract or with any of the said rules, regulations, or orders, its contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further State Contracts or State-assisted Construction Contracts in accordance with procedures authorized in OAC 123:2-3 through 2-9 and such other sanctions may be instituted and remedies invoked, as provided in OAC 123:2-3 through 2-9 or by regulation, or order of the State Equal Employment Opportunity Coordinator, or as otherwise provided by law.

In the event that its contract is terminated for a material breach of OAC 123:2-3 through 2-9 the contractor shall become liable for any and all damages which shall accrue to the State Administering Agency and Applicant and the State of Ohio as a result of said breach.

(8) The contractor will require the inclusion of language reflecting these same eight covenants within every subcontract or purchase order it executes in the performance of its contract unless exempted by rules, regulations or orders of the State Equal Employment Opportunity Coordinator issued pursuant to O.A.C. 123:2-3-02 so that these provisions will be binding upon each subcontractor or vendor. The contractor will take such actions as the Administering Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in any litigation with a subcontractor, vendor or other party as a result of such direction by the State Administering Agency, the contractor may be requested to protect the interests of the State.

>>> The prime contract bidder hereby adopts the foregoing covenants ? ___ Yes ___ No

BIDDER'S CERTIFICATION:

The undersigned, being a duly authorized officer of the prime contract bidder, does hereby certify to and agree with the foregoing statements and covenants regarding its subscription to the State's Equal Employment Opportunity Requirements for State-assisted Construction Contracts.

_____/_____/_____
Signature of Authorized Officer Date

Title

>>> PLEASE NOTE: Only a bidder possessing a valid certificate will be awarded a contract pursuant to Chapter 153 of the Revised Code by an owner referred to in section 153.01 of the Revised Code. Application shall be made at least ten working days prior to the date that the bidder expects to receive the certificate. The bidder's failure to elect one of the two Bidder's Affirmative Action Requirements, adopt the Bidder's EEO Covenants, and complete the foregoing certification may cause the bidder's proposal to be rejected as being non-responsive to the State's Equal Employment Opportunity Requirements and in non-compliance with the State Equal Employment Opportunity Bid Conditions. In addition, the bidder must, prior to the execution of a contract, submit to the local subdivision a valid Certificate of Compliance for Equal Employment Opportunity purposes.

"APPENDIX A" OF THE STATE EEO BID CONDITIONS

MINORITY MANPOWER UTILIZATION GOALS AND TIMETABLES

The following minority goals listed are expressed in terms of percentages of work hours for each trade to be used by the contractor in a designated area. Designated areas are defined as Ohio's Standard Metropolitan Statistical Areas (SMSA). They are: Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo and Youngstown-Warren. In cases where the project is not located in a designated area, the contractor may adopt minority utilization goals of the near/nearest designated area.

	AKRON		CINCINNATI		CLEVELAND	
			<u>Trade</u>		<u>Trade</u>	
All Trades	10%		Asbestos Workers	9%	Asbestos Workers	17%
			Boilermakers	9 %	Boilermakers	10%
			Carpenters	10%	Carpenters	16%
			Elevator Constructors	11%	Electricians	20%
			Floor Layers	10%	Elevator Constructors	20%
			Glaziers	10%	Floor Layers	11%
			Lathers	10%	Glaziers	17%
			Marble, Tile, Terrazzo	8%	Ironworkers	13%
			Millwright	10%	Operating Engineers	17%
			Operating Engineers	11%	Painters	17%
			Painters	11%	Pipefitters	17%
			Pipefitters	11%	Plasterers	20%
			Plasterers	10%	Plumbers	17%
			Plumbers	11%	Roofers	17%
			Sheet Metal Workers	11%	Other Trades	17%
			Other Trades	11%		

"APPENDIX B" OF THE STATE EEO BID CONDITIONS

SPECIFIC AFFIRMATIVE ACTION STEPS

The following Affirmative Action steps are directed at increasing minority utilization:

(1) The contractor should maintain a file of the names and addresses of each minority and female referred to it by any individual or organization and what action was taken with respect to each such referred individual, and if the individual was not employed by the contractor, and the reasons therefore. If such individual was sent to the union hiring hall for referral and not referred back by the union or if referred back by the union or if referred, not employed by the contractor, the file should document this and the reason therefore.

To Demonstrate Compliance: Maintain a file of the names, addresses, telephone numbers, and craft of each minority and female applicant showing (a) the date of contact and whether the person was hired; if not, the reason, (b) if the person was sent to a union for referral, and the results (c) follow-up contacts when the contractor was hiring.

(2) The contractor should promptly notify the State Contracting Agency when the Union or Unions with which the contractor has collective bargaining agreements does not refer to the contractor a minority or female worker referred (to the union) by the contractor, or when the contractor has information that the union referral process has impeded efforts to meet its goals.

To Demonstrate Compliance: Have a copy of letters sent, or do not claim the union is impeding the contractors' efforts to comply.

(3) The contractor should disseminate its Equal Employment Opportunity policy within its organization by including it in any company newsletters and annual reports; by advertising at reasonable intervals in union publications; by posting of the policy; by specific review of the policy with minority and female employees; and by conducting staff meetings to explain and discuss the policy.

To Demonstrate Compliance: Have a written EEO policy which includes the name and how to contact the contractor's EEO Officer and (a) include the policy in any company policy manuals, (b) post a copy of the Policy on all company bulletin boards (in the office and on all job sites), (c) records, such as reports or diaries, etc., that each minority and female employee is aware of the Policy and that it has been discussed with them, (d) that the policy has been discussed regularly at staff meetings and (3) copies of newsletters and annual reports which include the Policy.

(4) The contractor should continually monitor all personnel activities to ensure that its EEO policy is being carried out, including the evaluation of minority and female employees for promotional opportunities on a quarterly basis and the encouragement of such employees to seek those opportunities.

To Demonstrate Compliance: Have records that the company EEO Officer reviews all: (a) monthly workforce reports, (b) hiring and terminations, (c) training provided on-the-job, (d) minority and female employees quarterly for promotion and encourages them to prepare for and seek promotion. The records should be the EEO Officer's job description, reports, memos, personnel files, etc., documenting the activities for possible discriminatory patterns.

(5) The contractor should disseminate its EEO policy externally by informing and discussing it with all recruiting sources; by advertising it in news media, specifically including minority and female news media; and by notifying and discussing it with all subcontractors.

To Demonstrate Compliance: Have copies of (a) letters sent, at least six months or at the start of each new major contract, to all recruiting sources (including labor unions) requiring compliance with the

Policy, (b) advertising, which has the EEO "tagline" on the bottom, and (c) purchase order and subcontract agreement forms will include or make reference to the State EEO Covenant, Appendix A or B of the Ohio Administrative Code 123:2-3-02.

(6) The contractor should make specific and reasonably recurrent oral and written recruitment efforts directed at minority and women's organizations, and training organizations with the contractor's recruitment area.

To Demonstrate Compliance: Have a record either in a follow-up file for each organization or on the reverse of the notification letter sent under Item 1, above, of the dates, individuals contacted and the results of the contract from telephone calls or personal meetings with the individuals or groups notified under Item 1.

(7) The contractor, where reasonable, should develop on-the-job training opportunities and participate and assist in all Department of Labor funded and/or approved training programs (including Apprenticeship) Programs relevant to the contractor's employee needs consistent with its obligations in the Bid Conditions.

To Demonstrate Compliance: Have records of contributions in cash, equipment supplied and/or contractor personnel provided as instructors for Bureau of Apprenticeship and Training approved or Department of Labor funded training programs and records of the hiring and training of minorities and females referred to Company by such programs.

(8) The contractor should solicit bids for subcontracts (and joint ventures) from available minority and female subcontractors engaged in the trades covered by the Bid Conditions, including circulation of minority and female contractors associations.

To Demonstrate Compliance: Have copies of letters or other direct solicitation of bids for subcontracts/joint ventures from minority/female contractors with a record of the specific response and any follow-up the contractor has done to obtain a price quotation or to assist a minority/female contractor in preparing or reducing a price quotation; have a list of all minority/female subcontracts awarded or joint ventures participated in with dollar amounts, etc.

EXPLANATION OF AN ACCEPTABLE AFFIRMATIVE ACTION PROGRAM:

An Affirmative Action Program is a set of specific and result-oriented procedures to which a Contractor shall apply every good faith effort. The objective of those procedures and efforts is to assure equal employment opportunity. An acceptable Affirmative Action Program will include an analysis of all trades employed by the Contractor within the last year with an explanation of whether Minorities are currently being under-utilized in any one or more trades. A necessary prerequisite to the development of a satisfactory Affirmative Action Program is the identification and analysis of problem areas inherent in Minority employment and an evaluation of opportunities for utilization of Minority group personnel.

Part I - Basic Contents of an Affirmative Action Program:

1. Development or reaffirmation of the contractor's EEO policy in all personnel actions.
2. Formal internal and external dissemination of contractor's EEO policy.
3. Establishment of responsibilities for implementation of the contractor's affirmative action program.
4. Identification of problem areas (deficiencies) by organizational units and job classification.

5. Establishment of goals and objectives by organizational units and job classification, including timetables for completion.
6. Development and execution of action oriented programs designed to eliminate problems and further designed to attain established goals and objectives.
7. Design and implementation of internal audit and reporting systems to measure effectiveness of the total programs.
8. Compliance of personnel policies and practices with Federal sex discrimination guidelines (41 CFR Part 60-20).
9. Active support of local and national community action programs and community service programs, designed to improve the employment opportunities of minorities.
10. Consideration of ethnic minorities and women not currently in the work force having requisite skills who can be recruited through affirmative action measures.
11. Summary data on applicant flow, hires, terminations and promotions, and training for the last twelve months or the last one hundred applicants, hires, etc., whichever is less.

Part II - Analysis of Individual Trades

1. The minority population of the labor area surrounding (contractor's) projects.
2. The size of the minority unemployment force in the labor area surrounding (the contractor's) projects.
3. The percentage of minority work force as compared with the total work force in the immediate labor area.
4. The general availability of minorities having requisite skills in the immediate labor area.
5. The availability of minorities having requisite skills in the area in which the contractor can reasonably recruit.
6. The availability of promotable minority employees within the contractor's organization.
7. The anticipated expansion, contraction, and turnover of an in the work force.
8. The existence of training institutions capable of training minorities in the requisite skills.
9. The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

Goals, timetables and affirmative action commitments must be designed to correct any identifiable deficiencies. Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, the contractor shall establish and set forth specific goals and timetables. Such goals and timetables, with supporting data and the analysis thereof shall be a part of the contractor's written affirmative action program. Where the contractor has not established a goal, its written affirmative action program must specifically analyze each of the factors listed above, and must detail its reason for a lack of a goal. The goals and timetables should be attainable in terms of the contractor's analysis of its deficiencies and its entire action. Thus, in establishing its goals and timetables, the contractor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. If the contractor does not meet its goals and timetables, the

contractor's good faith efforts shall be judged as to whether the contractor is following its program and attempting to make the program work toward the attainment of its goals.

Support data for the above analysis and program shall be compiled and maintained as part of the contractor's affirmative action program. This data should include applicant flow data and applicant rejection ratios indicating minority status.

Compliance Status: No State Contractor's compliance status shall be judged alone by whether or not he reaches his goals and meets his timetables. Rather each Contractor's compliance posture shall be reviewed and determined by reviewing the contents of his program, the extent of his adherence to his program and his good faith efforts to make his program work toward the realization of the program's goals within the timetables set for completion.

“APPENDIX C” OF THE STATE EEO BID CONDITIONS

FEMALE UTILIZATION GOALS

OAC 123:2-3-05 Required utilization analysis and goals

- (A) Each state-involved contractor shall include in his/her affirmative action program the information and analysis required pursuant to part IV 401-C of appendix A of rule 123:2-1-01 of the Administrative Code, in addition to female utilization requirements pursuant to the governor's "Executive Order 84-9" and this rule.
- (B) As required by the governor's "Executive Order 84-9", the utilization of women shall be, at a minimum, that currently in use by the federal government as of February 15, 1984. This requirement stated at C.F.R. part 60-4 is 6.9 percent utilization of women. This requirement shall remain at 6.9 percent unless further amended by the governor in a subsequent order. This requirement shall be met by a determination of work hours utilized in the same manner as minority utilization hours are calculated.

APPENDIX I
RAILROAD AGREEMENTS

- AKRON METRO REGIONAL TRANSIT AUTHORITY
 - WHEELING & LAKE ERIE RAILWAY

The Contractor and this contract are subject and must comply with all requirements of the agreements

AT GRADE CROSSING EASEMENT AGREEMENT

THIS AT GRADE CROSSING EASEMENT AGREEMENT ("Agreement") is made as of March 26, 2014 ("Effective Date"), by and between **METRO REGIONAL TRANSIT AUTHORITY**, a regional transit authority created and existing under Ohio Revised Code Section 306, whose mailing address is 416 Kenmore Boulevard, Akron, Ohio 44301-1099, Attention: Executive Director ("Grantor") and **THE CITY OF CANTON, OHIO**, an Ohio municipal corporation, whose mailing address is 218 Cleveland Ave. SW, Canton, Ohio 44702 ("Grantee").

Recitals:

A. Grantee has requested the ability to widen an existing road at-grade crossing traversing Grantor's property in the City of Canton, County of Stark, Ohio on 12th Street NW, as shown on Exhibit A attached hereto and made part hereof.

NOW, THEREFORE, Grantor, subject to the limitations set forth herein, for and in consideration of the fee(s) to be paid by Grantee and of the covenants, terms, conditions and agreements herein to be kept and performed by the Grantee, hereby grants to Grantee two (2) easements or right-of-ways, within the limits hereinafter set forth to (i) traverse the line of railroad described; and (ii) to use and maintain an at-grade crossing (including the usual appurtenances, such as approaches, paved roadway, curbs, gutters, sidewalks, shoulders, slopes, fills, cuts and drainage facilities) across the track(s), right-of-way, and property of Grantor not to exceed 193.03 feet in width, consisting of a rubber surface at or near 12th Street NW located in the City of Canton, Stark County, Ohio, hereinafter called the "Crossing," the center line of 12th Street NW extends across said right-of-way and intersects the center line of Grantor's track(s) at Valuation Station 3050+00.87 as shown on Exhibit A attached hereto and made a part hereof.

1. USE, LIMITATIONS.

1.1 The Grantee shall only use the Crossing for highway or street crossing purposes, including appropriate pedestrian access across the track(s) within the Crossing over sidewalks or pathways installed for such purpose, and also for proposed and existing utility conduits and related facilities incidental to the Crossing, according to the terms and conditions contained herein.

1.2 The Grantor reserves the right and excepts unto itself the permanent right to continue to occupy, possess and use the area of the Crossing for any and all railroad related purposes and for all other purposes (including, without limitation, the right to grant other easements, licenses, and agreements to third parties).

1.3 The Grantee acknowledges that the rail line located on Grantor's property is still considered an active rail right-of-way and part of the National Transportation System by the Surface Transportation Board ("STB"), and that Grantor's property is currently regulated by the STB and the Federal Railroad Administration ("FRA"). Grantee shall cooperate and comply with any and all STB and FRA mandated rules, regulations and/or orders affecting Grantor's property from time to time.

1.4 This Agreement is subject to: (i) all encumbrances, conditions, covenants and easements applicable to Grantor's title to or rights in the subject property of the Crossing; (ii) any existing public utilities and other pipe or wireline facilities located in, on, over, under or across the

Crossing; (iii) all instruments, easements, agreements and rights therefor, recorded or not; and (iv) compliance by Grantee with terms and conditions herein.

2. FEES.

2.1 Grantee shall pay Grantor the amount of One Thousand Three-Hundred and no/100ths Dollars (\$1,300.00) as an administrative fee for the Crossing ("Fee"), which Fee represents the fair market value of the property rights granted herein, and which Fee shall be payable as a one-time fee in advance of the Effective Date. Grantee shall have no right of refund for any cause whatsoever with respect to any Fee paid to Grantor.

2.2 Grantee shall reimburse Grantor, upon delivery of invoice or bill thereof, all legal, construction, service and engineering fees and expenses incurred by Grantor in reviewing the documents, plans, drawings and specifications of the Crossing. Any additional or alternative costs or expenses incurred by Grantor to accommodate Grantee's continued use of Grantor's property as a result of track reactivation or Crossing modification shall be paid by the Grantee upon receipt of an invoice or bill thereof from Grantor. If Grantee fails to reimburse the Grantor within forty-five (45) days of receipt of an invoice, Grantor may terminate this Agreement effective immediately.

2.3 It is expressly agreed that the Grantor shall not at any time or in any manner be assessed with the cost or any part of the cost of the construction, removal or maintenance of any improvement constructed now or at any time in the future on or adjacent to the Crossing.

2.4 Grantee shall reimburse Grantor for all documented expenses, costs and/or interest incurred by Grantor by reason of Grantee failing to pay any bills, invoices or portions of any bills or invoices within forty-five (45) days after delivery from Grantor to Grantee.

3. CONSTRUCTION/MAINTENANCE

3.1 The Crossing (including the necessary appurtenances, approaches, roadway, curbs, gutters, shoulders, slopes, fills and cuts and drainage thereof) shall be constructed, approved and widened by Grantor, at the sole cost and expense of Grantee, in a manner and of materials in all respects satisfactory to Grantor (or Grantor's Chief Engineer or its designated representative), and any and all expenses necessarily incurred in connection therewith shall be borne solely by Grantee. The estimated cost to construct and widen the Crossing is approximately Four Hundred Seventy-Five Thousand and 00/100 Dollars (\$475,000.00). Grantee acknowledges and agrees that Grantor shall construct the Crossing on behalf of Grantee, and Grantee shall be solely responsible for any and all costs and expenses incurred in connection with said construction and maintenance of the Crossing by Grantor.

3.2 Notwithstanding the above or anything to the contrary herein, all construction and maintenance work to be performed on that portion of the Crossing between the rails of said track(s) and four feet (4') on the outside of each rail thereof, and any work on Grantor's signal and communication facilities deemed necessary by Grantor to permit Grantee's use of Crossing, must be performed by Grantor, but at the sole cost and expense of Grantee.

3.3 Prior to commencing the construction, installation or widening of the Crossing, Grantee shall provide Grantor with certification from the funding authority confirming availability of funds in the amount described in Section 3.1 above. Grantor shall have no obligation to commence or

perform construction described in this Agreement unless and until certification of funding is provided to Grantor. Grantor shall furnish to Grantee on a monthly basis a detailed statement showing the cost of work, including materials used for the construction of the Crossing, for that respective month. Grantee shall reimburse Grantor upon delivery of the monthly invoices or bills thereof for the cost of construction of the Crossing. If Grantee fails to reimburse the Grantor within forty-five (45) days of receipt of an invoice, Grantor may terminate this Agreement effective immediately.

3.4 After construction of the Crossing, Grantee, at its sole cost and expense, shall maintain all approachways, and shall keep the Crossing at all times free and clear of all spilled materials, ice, snow, mud, debris and all obstructions (including parked vehicles) to satisfaction of Grantor.

3.5 Any and all construction and maintenance which Grantee is obligated to perform pursuant to this Agreement, or which Grantee's contractors or agents perform, shall be performed in a prudent and workmanlike manner, in conformity with any applicable statutes, orders, rules, regulations, and specifications of any public authority having jurisdiction over the Crossing, including the STB and FRA, and under conditions satisfactory to and approved by Grantor (or Grantor's Chief Engineer or its designated representative). Said construction and maintenance shall be performed at such times and in such manner as not to interfere with the safe use, operation and movement of Grantor's trains, and any detour signs necessary to re-route traffic because of a closed Crossing shall be done by the Grantee at its sole cost and expense.

3.6 Before any work hereunder is performed, Grantee, at its sole cost and expense, shall obtain all necessary permit(s), approvals and authorizations. Grantee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permits, approvals and authorizations, and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (state, federal or local) having jurisdiction over Grantee's activities or Grantor's rail line, including the STB and FRA. Grantee assumes sole responsibility for failure to obtain such permits or approvals, for any violations thereof, or for costs or expenses of compliance or remedy.

3.7 In the event Grantee contracts for the performance of any Crossing work, Grantee shall require its contractor(s) and/or subcontractor(s) to comply with all the terms of this Agreement.

3.8 At such time that the Grantor performs maintenance or repairs to trackage at the Crossing, the Grantee will, during such time and at the directions of the Grantor, either close said Crossing to traffic or provide flagging protection (and temporary detour grade crossing, if deemed necessary). Grantee shall pay all costs of traffic control or flagging when the maintenance or repairs are necessitated by or due to requirements of the Grantee. Grantor shall provide fourteen (14) days' notice prior to performing any maintenance under this Section.

3.9 Grantee shall be solely responsible for any relocation or protective encasement of any subsurface pipe or wire lines (telephone, electronic power transmission or distribution, fiber optic, cable television, water, sewer, gas or petroleum products, etc.) and for necessary relocation of surface structures or facilities (fences, towers, poles, etc.) incident to the initial construction of the Crossing or to maintenance and repairs necessitated by or due to requirements of the Grantee.

3.10 The Grantor also reserves the right at any time, if it so desires, to remove (abandon) any trackage located within the limits of the Crossing; in such event Grantor shall have the right and is hereby granted the privilege to remove any paving from the Crossing to the extent necessary for the removal of said trackage and, upon completion of said trackage removal, Grantee will restore the Crossing, at Grantee's entire cost and expense. Grantee shall be responsible for all costs and expenses of installing and maintaining the roadway in the area of the removed track.

4. DRAINAGE.

4.1 Grantee shall not interfere with, or permit its contractors to interfere with, the existing drainage facilities underneath the Crossing.

4.2 Grantee shall furnish, install and maintain, at Grantee's sole expense and in a manner satisfactory to Grantor (or Grantor's Chief Engineer or its designated representative), necessary drainage pipe within the approachways of the Crossing, on each side of said track(s), to accept drainage from the roadbed and keep drainage from the track(s) and right-of way of Grantor.

5. GATES AND SIGNALS.

(Notwithstanding anything to the contrary contained herein, this section shall only apply if the line of railroad described herein is restored to active service.)

Grantor, at Grantee's sole cost and expense, shall furnish, construct and maintain any gate(s), sign(s), flashing light signals, and/or crossing warning devices(s), or provide permanent flaggers or other protective services, as shall from time to time be deemed necessary for public safety purposes by Grantor or by any public authority sharing jurisdiction over rail at-grade crossings. The design and placement of signs, gates and any crossing warning devices shall be subject to the approval of Grantor (or Grantor's Chief Engineer or its designated representative). The cost of installing and maintaining and/or furnishing such additional crossing protection shall be paid solely by Grantee as a condition to keeping the Crossing in place.

6. ALTERATIONS; TRACK CHANGES

6.1 Whenever any repairs or changes are made to Grantor's right-of-way or track(s), or if additional track(s) are laid at the site of the Crossing, necessitating repairs to, alteration of, or relocation of the Crossing, Grantor shall have the right and is hereby granted the privilege to remove any paving from said Crossing to the extent necessary for the construction of said track or tracks and, upon completion of the trackage construction, Grantor will, but at Grantee's entire cost and expense, restore the Crossing to a condition as existed prior to such alteration. In the event relocation of signals is required due to construction of said track or tracks, the cost thereof shall also be borne by Grantee.

6.2 In the event that the Grantor's operating and/or maintenance needs or uses require any change (including any raising, lowering or additions to), relocation or improvement in its right-of-way, track(s), structures, roadbed, rail communication or other facilities (including fiber optic cable) which necessitate any change of location, height or depth of the Crossing, Grantor shall make such changes in the Crossing and/or the grading, approaches or drainage, at Grantee's sole cost and expense, and upon plans and specifications approved by Grantor (or Grantor's Chief Engineer, or its designated representative).

6.3 If Grantee desires to revise, relocate or change all or any part of the Crossing, or if Grantee is required to change or alter the Crossing, drainage or approachways, plans therefor shall be submitted to Grantor for approval before any such change is made.

6.4 After any change or alteration, the terms and conditions of this Agreement shall apply thereto.

7. RISK, LIABILITY, INDEMNITY.

7.1 Grantee (or the contractors of the Grantee), recognizing that Grantor's operations and use of its property, tracks and right-of-way involves increased risks, expressly assumes all liability for, and agrees to defend, indemnify and hold Grantor, its officers, employees and agents harmless from all liability, loss, expense (including attorneys' fees), and claims for damages arising out of the performance of this Agreement, but only to the extent of any insurance as allowed by R.C. 2744, and only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for damages are caused by the acts or omissions of Grantee, its officers, employees or agents, and subject to any defenses and/or immunities provided to Grantee by R.C. 2744 and Ohio law.

7.2 For the purposes hereof only, all persons, including the employees, agents, officers and directors of Grantor (flaggers, watchmen, etc.) and of Grantee, or employees of any independent or subcontracting third parties, engaged in any construction or maintenance activities at the Crossing, in any of the work described in this Agreement, shall be deemed to be the sole contractors of Grantee while so engaged.

7.3 Grantee shall promptly (within thirty (30) days) advise Grantor in writing, by Certified Mail, of any claims made against Grantee and/or Grantor under this Agreement or from use of the Crossing.

8. INSURANCE.

8.1 During any construction by Grantee (or Grantee's contractors) at or adjacent to the Crossing, Grantee shall procure (or require its contractors to furnish), at its sole cost and expense, Commercial General Liability (CGL) Insurance covering liability assumed by Grantee under this Agreement naming Grantor as an additional named insured and containing a contractual liability endorsement covering obligations assumed by Grantee under this Agreement and such other endorsements as, in the opinion of counsel for Grantor, may be necessary or advisable to fully protect and indemnify the Grantor. Coverage of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence, for bodily injury, and property damage is required as a prudent minimum to protect Grantee's assumed obligations hereunder at the Crossing. The CGL policy shall be endorsed to provide for thirty (30) days' notice in writing to Grantor, at the address above, prior to termination of or change in the coverage provided.

8.2 If said CGL policy is written on a "Claims Made" basis rather than "per occurrence" basis, Grantee shall arrange for adequate time for reporting losses. Failure to arrange adequate reporting time shall be Grantee's sole risk.

8.3 Construction shall not begin and the Crossing shall not be opened for traffic until said CGL insurance coverage is placed in effect. All endorsements and notice provisions shall be stated

on the Certificate of Insurance which is to be provided to the Grantor. In the event said CGL insurance is canceled, or is allowed to lapse, the Crossing shall be subject to immediate closure and removal by Grantor upon notice to Grantee, all at Grantee's cost.

8.4 Specifically to cover construction and/or demolition activities within fifty feet (50') of any operated railroad tracks or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Grantee shall pay to Grantor such amounts necessary to cover the cost of adding the Crossing area to Grantor's Railroad Protective Liability ("RPL") Policy for the period of actual construction.

9. BREACH, WAIVER.

9.1 If Grantee shall breach any provision of this Agreement, the Grantor may pursue any remedy available at law or in equity.

9.2 Any waiver by either party at any time of its right as to anything herein contained shall not be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or breach is waived in writing by said party.

9.3 Neither the failure of Grantor to object to any work done, material used, or method of construction or maintenance of the Crossing, nor any approval given or supervision exercised by Grantor, shall be construed as an admission of liability or responsibility by Grantor, or as a waiver by Grantor of any of the obligations, liability and/or responsibility of Grantee.

10. NOTICE(S).

10.1 Before doing any work at or near the Crossing, Grantee shall give Grantor at least five (5) days' written notice, except that in cases of emergency repairs shorter notice may be given.

10.2 All other notices and communications concerning this Agreement shall be addressed to Grantee at the address above, and to Grantor at the address above, or at such other address as either party may designate in writing to the other.

11. TITLE

Grantee understands that Grantor occupies, uses and possesses lands, rights-of-way, and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Grantor's title for any particular right-of-way in the Crossing occupied, used or enjoyed in any manner by Grantee under any rights created in this Agreement. It is expressly understood that Grantor does not warrant title to any right-of-way in the Crossing, and Grantee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights and to the right-of-way, and all leases, licenses and easement or other interests previously granted to others herein.

12. GENERAL PROVISIONS.

12.1 This Agreement contains the entire understanding between the parties hereto, and cannot be changed, altered, amended or modified, except by written instrument subsequently executed by the parties hereto.

12.2 Neither this form nor any language of this Agreement shall be interpreted or construed in favor of or against either party hereto.

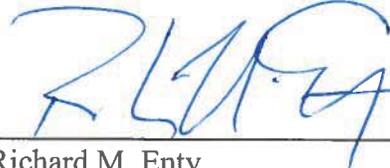
12.3 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law. Each separate division (paragraph, clause, item, term, condition, covenant, or agreement) herein shall have independent and severable status from each other separate division for the determination of legality, so that if any separate division is determined to be void, voidable, invalid or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division herein contained, or any other combination thereof.

12.4 Grantee understands that this Agreement does not allow Grantee to install or permit the installation of any other utilities (including, but not limited to, sewer, water and electric) within the limits of the Crossing described herein.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each of which shall be evidence of this Agreement but which shall constitute but one agreement, as of the day and year first written above.

METRO REGIONAL TRANSIT AUTHORITY

By: 
Richard M. Enty
Title: Executive Director/Secretary-Treasurer

THE CITY OF CANTON, OHIO

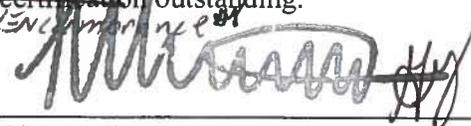
By: 
William L. Bartos
Title: Service Director
Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Grantee to the terms and conditions of this Agreement.

APPROVED AS TO FORM: CEC 3-24-14


Director of Law

Finance Certificate *\$475,000.00*

I certify that the ~~amount~~ *\$475,000.00* required to meet the Agreement has been lawfully appropriated or authorized or directed for such purpose and was at the time that the Agreement was made and is now in the treasury or in process of collection to the credit of the fund free from any obligation or certification outstanding.


City Auditor

STATE OF OHIO)
) SS:
COUNTY OF SUMMIT)

BEFORE ME, a Notary Public in and for said county and state, personally appeared Richard M. City, as Executive Director of **METRO REGIONAL TRANSIT AUTHORITY**, who acknowledged that he/she did execute the foregoing instrument for and on behalf of said transit authority.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal as of this 25th day of March, 2014.



Ellen J. Whelan
Notary Public
Print Name: Ellen J Whelan

STATE OF OHIO)
) SS:
COUNTY OF STARK)

BEFORE ME, a Notary Public in and for said county and state, personally appeared William L. Bartos, as Service Director, of **THE CITY OF CANTON, OHIO**, who acknowledged that he/she did execute the foregoing instrument for and on behalf of said city.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal as of this 24th day of March, 2014.

Kathryn Wise
Notary Public
Print Name: Kathryn Wise

This Instrument Prepared By:
Amanda Pry, Esq.
Roetzel & Andress
A Legal Professional Association
222 South Main Street
Akron, Ohio 44308
(330) 376-2700



Kathryn J. Wise
Notary Public, State of Ohio
My Commission Expires 11-01-2016

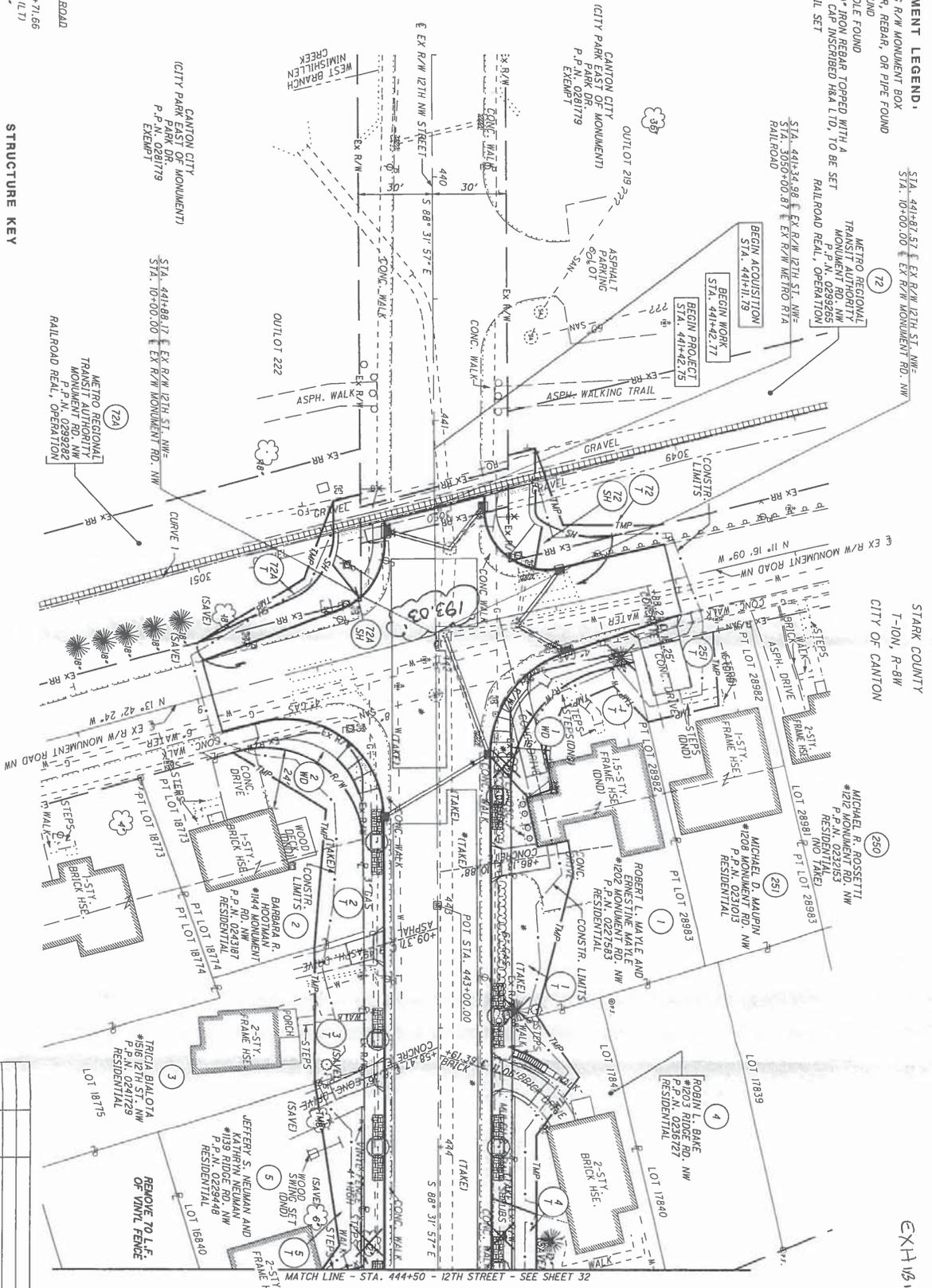
MONUMENT LEGEND:

- EXISTING R/W MONUMENT BOX
- IRON BAR, REBAR, OR PIPE FOUND
- MAIL FOUND
- DRILL HOLE FOUND
- 3/4" X 30" IRON REBAR TOPPED WITH A PLASTIC CAP INSCRIBED W/4 L TO, TO BE SET
- MAG. MAIL SET

R/W EX. RAILROAD
 CURVE 1
 P.I. STA. 3047+71.66
 = 10° 09' 00" (L7)
 DC = 30' 00"
 R = 11,459.22'
 T = 1,017.66'
 L = 2,030.00'
 E = 46.10'
 C.B. = 2,027.35'
 C.B. = 5' 11" 35' 37" E

STRUCTURE KEY

- RESIDENTIAL
- COMMERCIAL
- OUT-BUILDING



* RIGHT OF WAY ENCROACHMENT TO BE REMOVED
DND DO NOT DISTURB

REV	BY	DATE	DESCRIPTION
1	BAI	3/12	DESIGN
2	BAI	3/12	DESIGN
3	BAI	3/12	DESIGN
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5	BAI	3/12	DESIGN
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100	BAI	3/12	DESIGN

30 / 83

STA-12TH STREET

**RIGHT OF WAY TOPO SHEET
STA. 439+50 TO STA. 444+50**

R/W DESIGNER
JMK & PKM
R/W REVIEWER
LBD

PID NO.
85299



EXHIBIT 'A'

MATCH LINE - STA. 444+50 - 12TH STREET - SEE SHEET 32

BOARD OF CONTROL

Meeting Minutes

Board of Control (BOC) meeting held March 11, 2014 at 9:00 AM in the Mayor's Conference Room. Director of Public Service William Bartos called the meeting to order at 9:10 AM. Board Secretary John Highman called roll. Director of Public Service William Bartos and Director of Public Safety Andrea Perry were present. Board President Mayor William J. Healy, II was not present. Director of Purchasing Randy Dublikar, Director of Development Kirby Freeman, and Board Secretary John Highman also attended.

The following items were for review/approval by the BOC:

Ordinance 14/2014

Award and enter into contract with Downtown Ford Lincoln, Inc. for the purchase of three (3) standard size trucks in the amount of \$57,712.50.

Discussion: None.

Motion: Director Perry made a motion to approve the contract. Director Bartos seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 29/2014

Enter into a one-year professional services contract with T.A.C. Computer, Inc. in an amount not to exceed \$20,725.20.

Discussion: None.

Motion: Director Perry made a motion to approve the contract. Director Bartos seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 30/2014

Enter into an agreement with Time Warner Cable for the compensation for the relocation of existing overhead lines into new underground facilities in an amount not to exceed \$36,523.00 for the Mahoning Rd. Corridor Project.

Discussion: None.

Motion: Director Bartos made a motion to approve the contract. Director Perry seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 30/2014

Enter into an agreement with the Ohio Power Company aka American Electric Power (AEP) for the compensation for the relocation of existing overhead lines into new underground facilities in an amount not to exceed \$167,000.00 for the Mahoning Rd. Corridor Project.

Discussion: None.

Motion: Director Bartos made a motion to approve the contract. Director Perry seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 30/2014

Enter into an agreement with AT&T for the compensation for the relocation of existing overhead lines into new underground facilities in an amount not to exceed \$115,127.00 for the Mahoning Rd. Corridor Project.

Discussion: Director Bartos recommended against awarding the contract as currently authorized by Council. He explained that according to City Engineer Dan Moeglin, the price for this work had increased to about \$130,000.00 and as a result would require additional action by Council. This was not discovered before the Board of Control agenda was prepared.

Motion: Director Bartos made a motion to approve the contract. Director Perry seconded.

Vote: 0 yeas 2 nays Motion failed.

Ordinance 31/2014

Enter into an agreement with the Ohio Power Company aka American Electric Power (AEP) for the compensation for the relocation of existing overhead lines into new underground facilities in an amount \$62,876.72 for the 12th Street N. Corridor Project.

Discussion: None.

Motion: Director Bartos made a motion to approve the contract. Director Perry seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 31/2014

Enter into an agreement with Time Warner Cable for the compensation for the relocation of existing overhead lines into new

underground facilities in an amount \$35,553.00 for the 12th Street N. Corridor Project.

Discussion: None.

Motion: Director Bartos made a motion to approve the contract. Director Perry seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 32/2014

Enter into an agreement with Akron Metro Regional Transit Authority to secure rights-of-way for the 12th Street N. Corridor Project and facilitate the improvements to the existing crossing in the amount of \$476,300.00.

Discussion: None.

Motion: Director Bartos made a motion to approve the contract. Director Perry seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 190/2012 (Reauthorized by Ordinance 7/2014)

Enter into contract with Mental Health & Recovery Services to provide an ESG grant of \$23,100.00 to perform the HUD-mandated system of collecting and disseminating ESG clientele data on the homelessness.

Discussion: Director Freeman stated that this is HUD mandated and helps the department with meeting their timeliness deadlines.

Motion: Director Perry made a motion to approve the contract. Director Bartos seconded.

Vote: 2 yeas 0 nays Motion carried.

Ordinance 75/2012 (Reauthorized by Ordinance 7/2014)

Enter into contract with the Domestic Violence Project, Inc. to provide an additional ESG grant of \$25,000.00 to the existing award of \$50,000.00 for a total of \$75,000.00 to assist eligible domestic violence participants with homeless prevention activities for the Emergency Solutions Program.

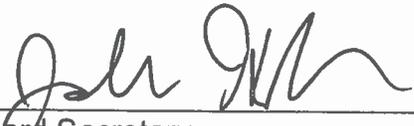
Discussion: Director Freeman stated that this is a reputable program, it serves a good purpose, and it helps the department with meeting their timeliness deadlines.

Motion: Director Bartos made a motion to approve the contract. Director Perry seconded.

Vote: 2 yeas 0 nays Motion carried.

Adjournment: Director Bartos made a motion to adjourn the meeting. Director Perry seconded.

Vote: 2 yeas 0 nays Meeting adjourned: 9:18 AM



Board Secretary



Board President

Canton 68 2-10-14

Mayor Purch. Treasurer
Law Budgets City Auditor
Audit Engineers

JM/tk
2/14/14
2038

By: William L. Bartos, Director of
Public Service

⑧ 1st Reading 2/24/14

Referred to PPC1

⑭ 2nd Reading 3.3.14

3rd Reading 3/3/14

PASSED: 3/3/14

[Handwritten signatures]

Frank Morris

Recorded in Volume _____, Page _____

Recd. 3/3/14 @ 4:27pm CBS

ORDINANCE NO. 32/2014

AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO: ENTER INTO AGREEMENTS WITH THE WHEELING AND LAKE ERIE RAILWAY COMPANY AND AKRON METRO REGIONAL TRANSIT AUTHORITY TO SECURE RIGHTS-OF-WAY FOR THE 12TH ST. N. CORRIDOR PROJECT AND FACILITATE THE IMPROVEMENTS TO THE EXISTING CROSSING; AMENDING APPROPRIATION ORDINANCE NO. 264/2013; AND DECLARING THE SAME TO BE AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANTON, STATE OF OHIO, THAT:

Section 1. The Mayor and/or Director of Public Service, on behalf of the city of Canton, is authorized and directed to enter into an agreement with the Wheeling and Lake Erie Railway Company to secure rights-of-way for the 12th St. N. Corridor Project (Project) and facilitate the improvements to the existing crossing.

Section 2. The Mayor and/or Director of Public Service, on behalf of the city of Canton, is further authorized and directed to enter into an agreement with Akron Metro Regional Transit Authority to secure rights-of-way for the Project and facilitate the improvements to the existing crossing.

Section 3. Appropriation Ordinance No. 264/2013, as amended, is amended by making the following supplemental appropriation:

FROM:	Unappropriated Balance of 4563 12th St. N. Corridor Project, G.P. 1098 Fund	\$450,000.00
TO:	4563 202077 12th St. N. Corridor Project, G.P. 1098 - Other	\$450,000.00

Section 4. The Auditor is authorized and directed to draw his warrants upon receipt of vouchers duly approved by the proper departmental authority.

Section 5. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the city of Canton; the emergency being to avoid unnecessary delay to the 12th St. N. Corridor Project, G.P. 1098. And provided it receives the affirmative vote of two-thirds of the elected and/or appointed members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: *March 3, 2014*



President of Council

ATTEST: *March 3, 2014*

APPROVED:

Cynthia Dimech

Clerk of Council

Wm Healy

Mayor

Certified Search for Unresolved Findings for Recovery



Dave Yost
Ohio Auditor of State

Office of Auditor of State
88 East Broad Street
Post Office Box 1140
Columbus, OH 43216-1140
(614) 466-4514
(800) 282-0370

Auditor of State - Unresolved Findings for Recovery Certified Search

I have searched The Auditor of State's unresolved findings for recovery database using the following criteria:

Contractor's Information:

Organization: Metro Regional Transit Authority
Date:03/26/2014

This search produced the following list of possible matches:

2 Possible matches were found

Name/Organization	Address
Hammett, Demetrius	72 North Jackson Avenue Bellevue, PA 15202
Khemet, Kofi	437 Silver Meadows Blvd. Kent, OH 44240

The above list represents possible matches for the search criteria you entered. Please note that pursuant to ORC 9.24, only the person (which includes an organization) actually named in the finding for recovery is prohibited from being awarded a contract.

If the person you are searching for appears on this list, it means that the person has one or more findings for recovery and is prohibited from being awarded a contract described in ORC 9.24, unless one of the exceptions in that section apply.

If the person you are searching for does not appear on this list, an initialed copy of this page can serve as documentation of your compliance with ORC 9.24(E).

Please note that pursuant to ORC 9.24, it is the responsibility of the public office to verify that a person to whom it plans to award a contract does not appear in the Auditor of State's database. The Auditor of State's office is not responsible for inaccurate search results caused by user error or other circumstances beyond the Auditor of State's control.

PURCHASE ORDER

2014-19

Richard A. Mallonn II, Auditor
 218 Cleveland Avenue, S.W.
 P.O. Box 20230
 Canton, OH 44701-0230
 PHONE: 330-489-3226
 FAX NO. 330-580-2067

William J. Healy II, Mayor
 P.O. Box 24218
 Canton, OH 44701-4218
 PHONE: 330-489-3245
 FAX NO. 330-489-3499

PURCHASE ORDER # P1402483 Page 1
 DATE OF P.O. 03/26/14

City of Canton, Ohio

TO: V00025697
 VENDOR CODE

METRO REGIONAL TRANSIT AUTHORITY
 416 KENMORE BLVD
 AKRON OH 44301

SHIP & INVOICE TO:
 ENGINEERING DEPT.
 2436 - 30TH STREET NE
 A 1ST
 CANTON OH 44705

SHOW PURCHASE ORDER NUMBER, SHIP TO AND MARK ON ALL DOCUMENTS

03/30/14
 DATE REQUIRED

Terms of Invoice PAYMENT TERMS		PURCHASING DEPARTMENT BUYER NAME		SHIP VIA		
ITEM	F.O.B. POINT	COMMODITY DESCRIPTION	QUANTITY	U/M	UNIT PRICE	EXTENDED
1		FOR CONSTRUCTION WITH AKRON METRO REGIONAL TRANSIT AUTHORITY FOR 12TH ST. N. CORRIDOR PROJECT, GP 1098	1.00	EA	475,000.0000	475,000.00
FOR INTERNAL USE ONLY:					FIXED ASSET FORM REQUIRED	
1	4563 202077 75812 1200					
DISCOUNT:						.00
ADDL CHARGES:						.00
TOTAL TAXES:						.00
TOTAL						475,000.00

Note: Municipalities Are Tax Exempt
 Mail Invoices in Triplicate on day of Shipment
 Vendor - Payment can not be made unless
 Auditor receives your Federal I.D. No. or
 Social Security No.

By: RICHARD A. MALLONN, II
 Canton City Auditor

R1402662

I HEREBY CERTIFY THAT THE MONEY TO MEET THE ABOVE OBLIGATIONS HAS BEEN LAWFULLY APPROPRIATED OR AUTHORIZED FOR SUCH PURPOSE AND IS IN THE TREASURY OR IN PROCESS OF COLLECTION TO THE CREDIT OF THE PROPER FUND AND FREE FROM ANY PREVIOUS OR OUTSTANDING OBLIGATION OF CERTIFICATION.

VENDOR

**IN THE MATTER OF THE WIDENING
OF THE EXISTING GRADE
CROSSING OVER THE TRACKS OF
THE WHEELING & LAKE ERIE
RAILWAY CO. AT 12th ST. NW IN THE
CITY OF CANTON, STARK COUNTY,
OHIO.**

**CANTON CITY PROJ. NO. GP 1098
ODOT PID NO.: 85299**

AGREEMENT

THIS AGREEMENT, made this 25^h day of March, 2014 between the **CITY OF CANTON** as First Party, hereinafter referred to as the **CITY**, and the **WHEELING & LAKE ERIE RAILWAY COMPANY**, as the Second Party, hereinafter referred to as the **RAILROAD**.

WITNESSETH:

WHEREAS, The CITY proposes to widen an existing at grade crossing DOT 474-399-K, to carry 12th St. NW over the tracks of the RAILROAD at milepost Q58.5 of the Cleveland Sub-Division, in the City of Canton, Stark County, Ohio, and

WHEREAS, said construction requires the widening of an existing at grade crossing at the grade of the track of the RAILROAD and the highway at the point hereinbefore mentioned. Said crossing, warning devices, and the necessary approaches thereto are hereinafter referred to as the PROJECT; and

WHEREAS, no existing RAILROAD grade crossing will be eliminated as a result of the proposed construction; and

WHEREAS, under such conditions, Chapter 5523 of the Revised Code of Ohio and other grade crossing elimination laws of the State of Ohio do not apply to the PROJECT herein considered; and

WHEREAS, it is desired by the parties hereto to carry out and accomplish the installation of new traffic control devices at or near tracks of the RAILROAD at the point hereinbefore mentioned and to determine and agree upon the manner of doing said work and the portion of said work to be done by each of said parties respectively, and the proportion of costs and expenses to be paid by each of said parties, and the mode and time of payment therefore.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, it is agreed between the parties as follows:

SECTION 1

The plans of the CITY for the said improvement are identified by title as follows:

"State of Ohio, Department of Transportation, 12th St. NW, City of Canton, Stark County".

Before this agreement shall be in force and effect, the foregoing plans shall meet the approval of the parties hereto, and upon such approval shall become a part of this agreement by reference.

SECTION 2

The work to be done under this agreement and shown on the plans described under SECTION 1 of this agreement consists of but is not limited to the following:

- a) Road to widen 6'3" on south side.
- b) 5' sidewalk between gate no. 1 and new curb line
- c) Gate no. 1 will be relocated to provide a minimum clearance of 2'6" from edge of sidewalk.
- d) Poles near gate no. 1 must be removed prior to gate relocation, visual obstruction to relocated flashers.
- e) Overhead wires at gate no. 1 must be raised to 40' or eliminated before gate relocated.
- f) 8' crossing panel to be added by RAILROAD on north side for sidewalk- final position to be marked by CITY.
- g) CITY to re-route sidewalk to match up with new panels.
- h) CITY to remove & dispose of any and all old sidewalk materials/asphalt.
- i) RAILROAD to remove identified old sidewalk crossings panels on north side.
- j) Overhead wires to be heightened to 35' clearance on north side or eliminated above gate no. 2.
- k) CITY to provide for all new sidewalks and curbs on the south side.
- l) RAILROAD to relocate gate no. 1 once overhead wire issue and poles removals are addressed.
- m) CITY to provide for and bring to the RAILROAD bungalow any necessary pre-emption and interconnect cabling and hardware.
- n) New sidewalk crossing panel will require new ties and hardware under the entire 8' width.

- o) RAILROAD signal department will coordinate all work associated with gate relocation.

The construction of the highway and any necessary earth work to effect the grading, draining and paving of the highway, the sodding, seeding and planting of slopes, the construction of highway guard rails, the settlement of claims for property purchased, appropriated or damaged by such construction, and the maintenance of railroad traffic and rearrangement and restoration of railroad facilities made necessary by the work herein contemplated, shall be considered as necessary items to be included as part of this improvement.

SECTION 3

Responsibility for the several necessary items of work shall be as follows:

- a. The following items shall be let in contract by the CITY after competitive bidding as provided by law, at PROJECT expense, subject to the provisions of this agreement:
 - 1. Grading, draining and paving the highway, including constructing any necessary side drives and approaches.
 - 2. Sodding, seeding and planting of slopes.
 - 3. Erecting necessary highway guardrails.
- b. The following items shall be done or caused to be done by the RAILROAD with its own forces or Sub-Contractor, at PROJECT expense, subject to the provisions of this agreement.
 - 1. Changes in communication and signal lines, interlocking and signal apparatus
 - 2. Provision of switch tenders, flagmen, watchmen and other protective services and devices to promote safety and insure continuity of train operations as may be necessary in connection with the work performed by the RAILROAD's forces.
 - 3. All Labor, Materials and Equipment directly related to the widening of the existing crossing and all work in relation to Section 2, a through o and listed above.

SECTION 4

Any work not specifically provided for in SECTION 3 shall be done by one of the parties hereto as may be mutually agreed upon from time to time during progress of the work, as provided for by the rules and regulations of the Federal Highway Administration as then in effect.

SECTION 5

All work to be done by the RAILROAD under the provisions of this agreement shall be done in accordance with the plans described in SECTION 1, and described further in the attached plans titled "Road Widening Changes (12th Street NE, Canton, OH)", dated 3/31/2006, and updated 3/21/2014, together with such other plans and specifications, detailed and

supplementary thereto, as may be mutually agreed upon and as may be necessary to carry out the work fully in accordance with the intent of this agreement and in accordance with good engineering practice. All work to be done by the CITY shall be done in accordance with said plans and under the standard and supplemental specifications in force on the date of the award of the contract, together with such special provisions as may be agreed upon by the parties hereto.

The CITY will require its contractor to use Railroad protective personnel to protect railroad traffic made necessary or occasioned by his operations, as set forth in special provisions to be approved by the parties hereto, which are more specifically set forth in the CITY PROJECT construction contract documents which are included in this agreement by reference.

The RAILROAD agrees to furnish the CITY's contractor at PROJECT expense, and the CITY shall require its contractor to use, such flagmen, or watchmen or other protective services and devices, other than engineering personnel, as in the opinion of the RAILROAD are required to promote the safety and insure continuity of railroad traffic during the contractor's operations.

The RAILROAD agrees to bill the CITY as a part of its regular force account work the actual cost for such protective services and devices, including the actual rate of pay, plus the amount paid for overtime, insurance, railroad retirement, vacation allowance, holidays, health and welfare, transportation, deadhead and turn around time, accounting and billing.

The CITY agrees to reimburse the RAILROAD for said protective services and devices as a part of its regular force account work as set forth in this agreement.

SECTION 6

The CITY shall have general charge of the engineering work on the PROJECT, but the RAILROAD or its Sub-Contractor shall provide such engineering services as the CITY may require. Nothing herein shall deny the RAILROAD the right to place inspectors on work being done on its property or facilities. Preliminary engineering costs incurred by the RAILROAD subsequent to March 25, 2014 may be charged against the PROJECT.

Construction engineering and inspection costs incurred by the RAILROAD or its Sub-Contractor subsequent to the award of a construction contract by the CITY may be charged against the PROJECT.

SECTION 7

The CITY shall require its contractor at all times to use all reasonable care and diligence and to cooperate with the officials of the RAILROAD in order to avoid accidents, damage or unnecessary delay to or interference with trains upon the tracks of the RAILROAD.

Any of the RAILROAD's equipment, such as work trains, locomotive cranes, cars or other rolling stock used on the work by the CITY contractor in carrying out his contract shall not be chargeable to the parties hereto, but the CITY shall require the contractor to bear the cost of the rental of such equipment as part of the contract price for the work.

If at any time the CITY's contractor requires a temporary crossing over the RAILROAD's tracks, the CITY shall require said contractor to arrange with the RAILROAD for such crossing.

The RAILROAD shall put in execution such "Slow Orders" as may be necessary to carry on the work under this agreement with reasonable economy and dispatch. It is understood that any required speed of less than forty (40) miles per hour is an unreasonable restriction of traffic. The CITY shall require its contractor at all times to use all reasonable care and diligence and to cooperate with the officials of the RAILROAD to order to avoid accidents, damage or unnecessary delay to or interference with trains upon the track(s) of the RAILROAD.

SECTION 8

It is understood that the construction costs of the PROJECT herein contemplated are to be financed from funds provided by the CITY and expended in accordance with Federal regulations, that all plans, specifications, estimates of costs, awards of contracts, acceptance of work and procedure in general will at all times conform to all Federal laws, rules, regulations, orders and approvals applying to a Federal-Aid Project, and the CITY shall reimburse the RAILROAD for construction costs and for preliminary and construction engineering costs in accordance with Federal-Aid Policy Guide 140(I) of the Federal Highway Administration or any subsequent amendments thereto, in such amounts and forms as are proper and eligible for payment from Federal-Aid highway funds. The RAILROAD shall render its billings to the CITY in accordance with said rules and regulations, and further agrees to provide and furnish such itemized records of and substantiating data for such costs as may be necessary.

In the event that delays or difficulties arise in securing necessary approvals or in securing necessary rights of way or settling damages or damage claims which, in the opinion of the CITY, render it impracticable to utilize funds from the current appropriation for the construction of the PROJECT, the CITY may serve formal notice of cancellation upon the RAILROAD and this agreement shall, with the exception of the obligations set forth in the following sentence, become null and void. The CITY shall reimburse the RAILROAD for all costs and expenses incurred by it at the request of the CITY, on account of the PROJECT prior to such cancellation, and shall restore the RAILROAD's property to the condition existing prior to the initiation of the PROJECT construction.

SECTION 9

The RAILROAD may bill the CITY monthly or periodically for its force account, as described in the fourth paragraph of SECTION 5, when costs exceed \$1,000.00. Progressive invoices may be submitted for work done during the previous month or period showing the portion of estimated cost completed. A final bill covering actual cost of work and showing all details shall be submitted to the CITY within ninety (90) days after completion of said work. The CITY shall pay all bills that have been approved within sixty (60) days after receipt thereof. The CITY may hold a retainer on all bills not to exceed eight percent (8%) until final payment. Final payment for all amounts due the RAILROAD shall be paid by the CITY within sixty (60) days after the final audit has been made and approved.

The cost of the PROJECT reimbursable to the RAILROAD is estimated to not exceed \$10,000.00. Any expense in excess of this amount must be approved by the CITY prior to being encored by the RAILROAD.

SECTION 10

The CITY has previously negotiated and compensated the RAILROAD \$1,654.00 for the purchase of both temporary and permanent easements to construct and maintain this PROJECT. The RAILROAD signed the easement documents on 2/2/14 which are included in this agreement by reference. The compensation for these rights is over and above the costs referenced in SECTION 9 of this agreement.

SECTION 11

Each party hereto waives, but only against the others, any and all damages or right to claim damages to any of its property growing out of or in any way connected with the improvement herein contemplated, except as otherwise provided for in this agreement.

The CITY shall require of its contractor a bond, conditioned according to Section 5525.16 of the Revised Code of Ohio, in favor of the CITY and the RAILROAD, and shall further require its contractor to take out before work is commenced, and keep in effect until work is completed and accepted, a policy of Railroad Protective Liability Insurance from an insurance company authorized to do business in the State of Ohio, to protect the RAILROAD against loss or damage to property and injury to or death of persons, and against all claims, demands, expenses, suits or judgments arising because of, or resulting from the operations of the contractor, his subcontractor, agents or employees, such policy of insurance to provide for a single limit in the amount of \$2,000,000.00 per occurrence and subject to that limit, an aggregate in the amount of \$4,000,000.00 for each annual period for all damages arising out of bodily injuries to or death of one or more persons and out of injury to or destruction of property including such property in the care, custody and control of the RAILROAD.

The above insurance provisions are more specifically set forth in the CITY PROJECT construction contract documents which are included in this agreement by reference.

SECTION 12

The work provided for in this agreement shall be commenced by the parties hereto within thirty (30) days from the latter of the following: (1) the date on which this agreement becomes effective, (2) the date on which the RAILROAD has been notified by the CITY to proceed or (3) the date on which all funds necessary therefore on the part of the CITY have been properly certified and made available; and it shall be completed within a reasonable time thereafter. Buying and assembling of materials shall be construed as compliance with the foregoing thirty (30) day provision.

All financial obligations of the CITY as provided for in this agreement are subject to the provisions of Section 126.07 of the Ohio Revised Code.

SECTION 13

Upon completion of the PROJECT herein contemplated the CITY shall at its own cost and expense, maintain, repair and renew, or by agreement with others provide for the maintenance, repair and renewal of the roadway structure and surfaces, approach grades and all other highway facilities constructed or changed under the terms of this agreement. The RAILROAD will permit access onto its property to perform said maintenance and shall at its own cost and expense, maintain, repair and renew all of its facilities constructed or changed under the terms of this agreement. The RAILROAD will not be vested with any rights of ownership of the roadway structure, and will not have a duty to maintain the roadway structure, and will not, if the structure ceases to be a part of the highway system, have a duty to remove the facility from the RAILROAD right of way.

SECTION 14

This agreement shall be for the benefit of the parties hereto only and no person, firm or corporation shall acquire any rights whatsoever by virtue of this agreement, except the STATE and RAILROAD and the successors and assigns of the RAILROAD.

SECTION 15

The Federal Highway Administration's Federal-Aid Policy Guide 646(B) classifies this PROJECT in Classification No. 2 resulting in no ascertainable benefits to the RAILROAD. The Parties signatory to this agreement accept this classification as applicable in this instance. The RAILROAD's contribution shall be zero dollars.

SECTION 16

The RAILROAD agrees to adhere to the requirements of Ohio Ethics law as provided by Section 102.04 of the Ohio Revised Code. O.R.C. Section 102.04(A) prohibits a state official or employee from receiving compensation, other than from his own agency, for personal services rendered in a case, proceeding application, or other matter before any state agency. O.R.C. Section 102.04(B) prohibits state officials and employees from selling goods or services to state agencies, except by competitive bidding.

It is understood by the parties that non-elected state officials and employees may qualify for an exemption under Section 102.04(D), if (1) the agency with which the official or employee seeks to do business is an agency other than the one with which he serves; and, (2) prior to rendering personal services or selling or agreeing to sell goods or services, the official or employee files an O.R.C. Section 102.04(D) statement with the Ohio Ethics Commission, the agency with which he serves, and the agency with which he seeks to do business. The statement must include a declaration that the non-elected state official or employee disqualifies himself for a period of two years from any participation in his official capacity as a board or commission member in any matter involving any official or employee of the agency with which he seeks to do business.

It is expressly understood and agreed to by the parties that a failure by the RAILROAD to file a declaration statement as required under O.R.C. Section 102.04(D), may be considered by

the CITY, a breach of material condition of this agreement and the CITY may, if it so elects, void this agreement.

SECTION 17

In carrying out this contract, the RAILROAD shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, or Vietnam-era veteran status. The RAILROAD will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, disability, age, or Vietnam-era veteran status.

Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

SECTION 18

RAILROAD agrees to comply with all applicable state and federal laws regarding drug-free workplace. RAILROAD shall make a good faith effort to ensure that all RAILROAD employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

SECTION 19

RAILROAD agrees to comply with all applicable state and federal requirements regarding Davis-Bacon and/or prevailing wages, if required. The CITY will provide written notification to the RAILROAD within 30 days of executing this agreement with a determination of the labor wage requirements. If these wages are required the additional costs will be covered by the CITY as part of this PROJECT.

SECTION 20

RAILROAD agrees to comply with all applicable reporting requirements regarding "Stimulus" ARRA funding, if utilized. The CITY will inform the RAILROAD within 30 days of the execution of this agreement as to this requirement. The additional cost associated with performing this reporting will be covered by the CITY as part of this PROJECT.

SECTION 21

The CITY agrees to provide the preemption times to the RAILROAD along with a copy of the calculations so the warning system may be designed to accommodate them. Future changes to the CITY's timing requirements will be the responsibility of the CITY. All costs associated with changes to the warning system required to comply with the modified times will be the responsibility of the CITY. The CITY will provide the RAILROAD with 24 hour contact information for reporting trouble with the interconnection. The RAILROAD will design for a standard AREMA 6-wire supervisory interconnect with a gate down indication for the north bound assembly. The CITY will provide cabling from the CITY's control shelter to the RAILROAD's control shelter.

SECTION 22

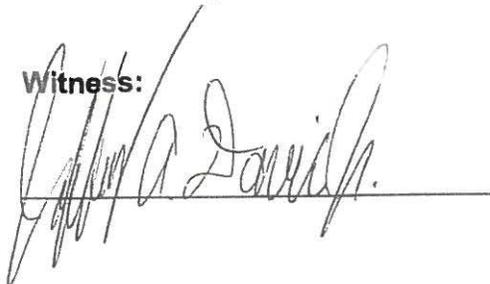
The CITY and the RAILROAD agree to comply with requirements and changes called for by the Public Utilities Commission of Ohio (PUCO). The preliminary engineering and design will be forwarded along with a copy of this agreement to the PUCO for review. Once the PUCO is completed with their review and both the CITY and the RAILROAD are satisfied with any changes to the design the PUCO will issue an order to the RAILROAD to proceed. The construction timeline will be established by the CITY and the RAILROAD will make good faith efforts to perform the necessary steps to comply.

SECTION 23

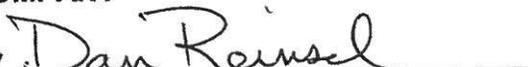
In the event the active warning devices are unable to operate as intended during the PROJECT as a result of PROJECT the RAILROAD may require supplemental means to warn the public of train movements as required by Federal Regulations. The RAILROAD may provide its own personnel to provide this warning, if personnel are available, at cost to the PROJECT. In the event the RAILROAD does not have the manpower available the CITY will supply an approved means to provide the required warning. Per the Federal Regulations this would require a uniformed police officer to be stationed at the crossing for the duration of the time the warning system is out of service. Coordination and costs for such activity will be the responsibility of the PROJECT.

IN WITNESS WHEREOF, the parties hereunto have caused this agreement to be duly executed in duplicate as of the day and year first above written.

Witness:

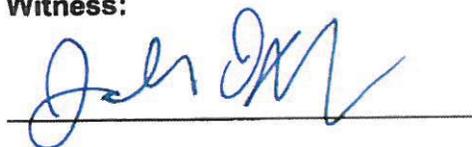


**THE WHEELING & LAKE ERIE RAILWAY
COMPANY**

By 

Dan Reinsel,
Assistant Vice President Engineering

Witness:



CITY OF CANTON

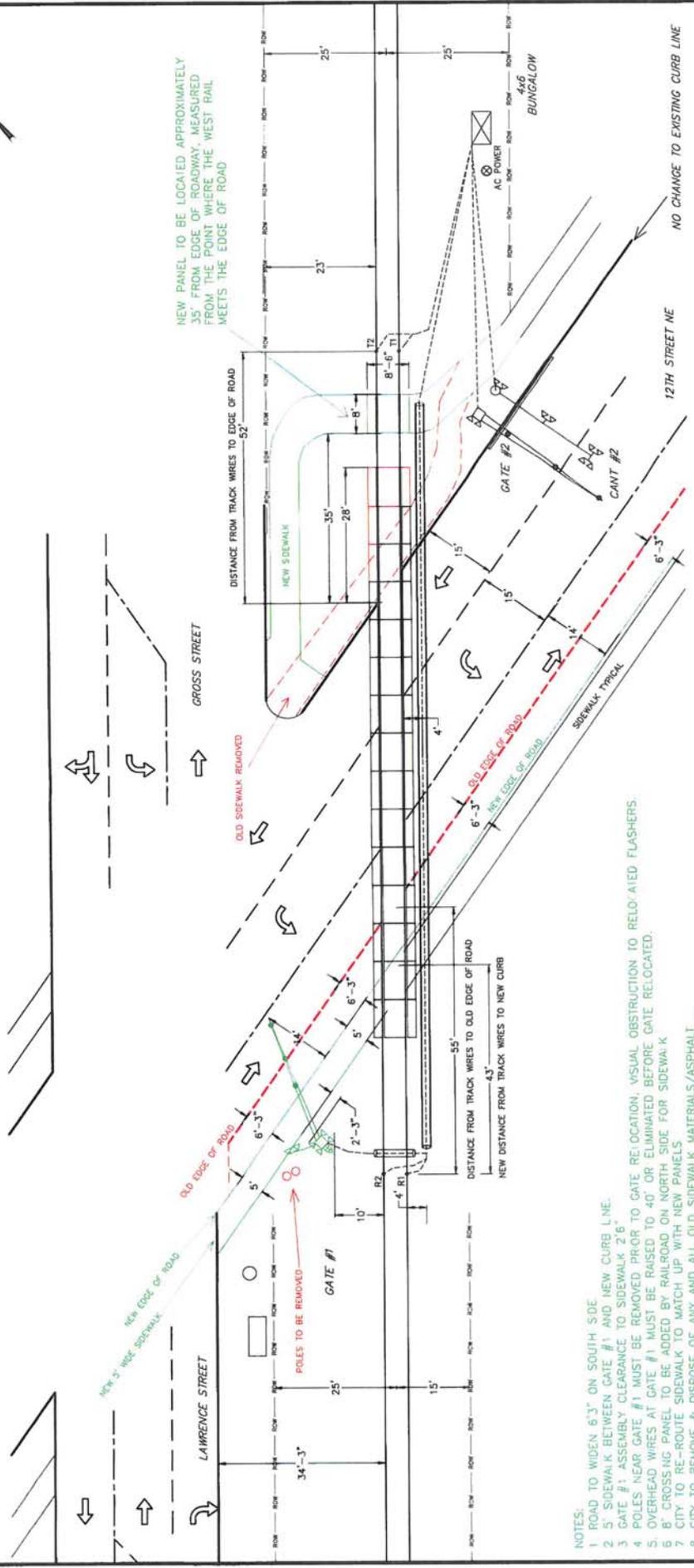
By 

William Bartos,
Service Director

Approved as to Form

By 

Joseph Martuccio,
Canton Law Director



NEW PANEL TO BE LOCATED APPROXIMATELY 35' FROM EDGE OF ROADWAY, MEASURED FROM THE POINT WHERE THE WEST RAIL MEETS THE EDGE OF ROAD

NO CHANGE TO EXISTING CURB LINE

LEGEND:
 RED = TO BE REMOVED
 GREEN = NEW OR CHANGE
 --- CONDUIT
 - - - - UNDERGROUND CABLE

- NOTES:**
1. ROAD TO WIDEN 6'-3" ON SOUTH SIDE
 2. 5' SIDEWALK BETWEEN GATE #1 AND NEW CURB LINE
 3. GATE #1 ASSEMBLY CLEARANCE TO SIDEWALK 2'-6"
 4. POLES NEAR GATE #1 MUST BE REMOVED PRIOR TO GATE RELOCATION. VISUAL OBSTRUCTION TO RELOCATED FLASHERS.
 5. OVERHEAD WIRES AT GATE #1 MUST BE RAISED TO 40' OR ELIMINATED BEFORE GATE RELOCATION.
 6. 8' CROSSING PANEL TO BE ADDED BY RAILROAD ON NORTH SIDE FOR SIDEWALK
 7. CITY TO RE-ROUTE SIDEWALK TO MATCH UP WITH NEW PANELS
 8. CITY TO REMOVE & DISPOSE OF ANY AND ALL OLD SIDEWALK MATERIALS/ASPHALT
 9. RAILROAD TO REMOVE IDENTIFIED OLD SIDEWALK CROSSINGS PANELS ON NORTH SIDE
 10. OVERHEAD WIRES TO BE HEIGHTENED TO 35' CLEARANCE ON NORTH SIDE OR ELIMINATED ABOVE GATE #2
 11. CITY TO PROVIDE FOR ALL NEW SIDEWALKS & CURBS ON SOUTH SIDE
 12. RAILROAD TO RELOCATE GATE #1 ONCE OVERHEAD WIRE ISSUE & POLE REMOVAL ADDRESSED
 13. CITY TO PROVIDE FOR AND BRING TO THE WLE BUNGALOW ANY NECESSARY PRE-EMPTION & INTERCONNECT CABLING & HARDWARE
 14. NEW SIDEWALK CROSSING PANEL WILL REQUIRE NEW TIES AND HARDWARE UNDER THE ENTIRE 8' WIDTH.
 15. WLE SIGNAL DEPT WILL COORDINATE ALL WORK ASSOCIATED WITH GATE RELOCATION

W&L E

Welding & Laid Out

12TH STREET NE
 CANTON, OH

ISSUE DATE	03/31/06	REV	ROAD WIDENING CHANGES
DESIGNER	WLE	DATE	CLEVELAND
CHECKED	WLE	NO. OF	5047
		PROJECT	D - 358-54
		SCALE	1"=10'
		DATE	01

REVISION BLOCK

NO.	DESCRIPTION	DATE
1	UPDATED ROAD WIDENING	21 MAR 2014

APPENDIX

J

Cost Proposal

PROPOSAL

Canton, Ohio, _____ 20 ____

To the Service Director of the City of Canton:

The undersigned, having carefully examined the site of the proposed work, the plans, profiles and standard drawings and specifications therefor, herewith propose to furnish all the labor and materials required for PID 85299, 12th St. N Corridor Project, GP 1098. This includes all work and materials that may be necessary to connect the work with the adjoining work, in a proper and workmanlike manner. All work shall be in accordance with drawings on file in the office of the City Civil Engineer, and upon the terms and conditions of the within specifications and under the direction of and to the satisfaction of the City Engineer and the Service Director of said City.

The bidder herein agrees that the Service Director has the right to reject any or all bids and that the bidder shall not dispute the correctness of the quantities used in computing the lowest and best bid.

The bidder hereby certifies that the undersigned _____ is the only person interested in the bid and the bidder herewith certifies that no officer or employee of the City of Canton is in any manner interested therein. The bidder agrees, if the bid is accepted, to enter into the prescribed contract within ten (10) days the date of service of notice of such acceptance, for the faithful performance of the labor and furnishing of the materials in such bid or bids so accepted, and to fully complete the said work within two (2) calendar years from Notice to Proceed.

The bidder herewith encloses a bond or certified check _____ in the sum of _____ dollars made payable to the Service Director of the City of Canton as guaranty that if awarded the contract for the work included in this proposal, _____ will enter into contract therefor, with sureties satisfactory to the Service Director, within the prescribed time of ten (10) days from the date of service of notice of award, otherwise such bond or check shall become the property of said City, as liquidated damages of the failure on the Bidder's part to so contract within specified time.

ADDRESS

RESPECTFULLY SUBMITTED

Bidder

PID 85299		GP1098, 12th St. N Corridor Project				
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
	ROADWAY					
1	201E11000	1	LS	CLEARING AND GRUBBING		
2	202E23000	23288	SY	PAVEMENT REMOVED		
3	202E30000	138830	SF	WALK REMOVED		
4	202E30800	81	SY	TRAFFIC ISLAND REMOVED		
5	202E32000	28088	FT	CURB REMOVED		
6	202E35100	3116	FT	PIPE REMOVED, 24" AND UNDER		
7	202E35200	100	FT	PIPE REMOVED, OVER 24"		
8	202E38000	30	FT	GUARDRAIL REMOVED		
9	202E53010	12	EACH	SPECIAL - PARKING BLOCK REMOVED AND RESET		
10	202E53100	1	EACH	MAILBOX REMOVED		
11	202E58000	6	EACH	MANHOLE REMOVED		
12	202E58100	119	EACH	CATCH BASIN REMOVED		
13	202E58500	4	EACH	CATCH BASIN ABANDONED		
14	202E75000	399	FT	FENCE REMOVED		
15	202E98100	27	EACH	REMOVAL MISC.: BOLLARD		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
16	202E98200	98	FT	REMOVAL MISC.: TRENCH DRAIN		
17	203E10000	15396	CY	EXCAVATION		
18	203E20000	568	CY	EMBANKMENT		
19	204E10000	35526	SY	SUBGRADE COMPACTION		
20	204E45000	16	HOUR	PROOF ROLLING		
21	608E10000	142860	SF	4" CONCRETE WALK		
22	608E10001	1038	SF	4" CONCRETE WALK, AS PER PLAN		
23	608E12001	261	SF	5" CONCRETE WALK, AS PER PLAN		
24	608E40001	1955	FT	CONCRETE STEPS, TYPE A, AS PER PLAN		
25	608E41001	1239	FT	CONCRETE STEPS, TYPE B, AS PER PLAN		
26	608E42000	60	FT	CONCRETE STEPS, MISC.: TYPE B (WHEELCHAIR RAMP)		
27	608E42000	283	FT	CONCRETE STEPS, MISC.: TYPE C		
28	608E52002	225	SF	CURB RAMP, MISC.: BIKE ONLY		
29	608E52010	914	SF	CURB RAMP, TYPE A1		
30	608E52030	441	SF	CURB RAMP, TYPE B1		
31	608E52040	10535	SF	CURB RAMP, TYPE B2		

PID 85299		GP1098, 12th St. N Corridor Project				
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
32	608E52041	2446	SF	CURB RAMP, TYPE B2, AS PER PLAN		
33	608E52044	3996	SF	CURB RAMP, TYPE B3		
34	608E52045	794	SF	CURB RAMP, TYPE B3, AS PER PLAN		
35	608E53010	222	SF	TRUNCATED DOME		
36	690E50600	8	EACH	BOLLARD (REFER TO RM-5.1)		
37	690E65016	5	TON	WORK INVOLVING PETROLEUM CONTAMINATED SOIL		
38	690E98000	9	EACH	MISC.: TYPICAL MAJOR BRT STOP WITH BUS SHELTER		
39	690E98000	13	EACH	MISC.: TYPICAL MINOR BRT STOP		
	EROSION CONTROL					
40	659E00100	10	EACH	SOIL ANALYSIS TEST		
41	659E00300	2738	CY	TOPSOIL		
42	659E00500	8214	SY	SEEDING AND MULCHING, CLASS 1		
43	659E14000	411	SY	REPAIR SEEDING AND MULCHING		
44	659E15000	411	SY	INTER-SEEDING		
45	659E20000	0.78	TON	COMMERCIAL FERTILIZER		
46	659E31000	1.78	ACRE	LIME		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
47	659E35000	45	MGAL	WATER		
48	659E40000	19	MSF	MOWING		
49	832E30000	1	EACH	EROSION CONTROL		
	DRAINAGE					
50	605E11100	18470	FT	6" SHALLOW PIPE UNDERDRAINS		
51	605E13300	1763	FT	6" UNCLASSIFIED PIPE UNDERDRAINS		
52	611E00401	487	FT	4" CONDUIT, TYPE E, AS PER PLAN		
53	611E00900	218	FT	6" CONDUIT, TYPE B		
54	611E01500	990	FT	6" CONDUIT, TYPE F		
55	611E01800	100	FT	8" CONDUIT, TYPE B, 707.33		
56	611E03100	100	FT	10" CONDUIT, TYPE B, 707.33		
57	611E04400	108	FT	12" CONDUIT, TYPE B		
58	611E04400	100	FT	12" CONDUIT, TYPE B, 707.33		
59	611E04401	8	FT	12" CONDUIT, TYPE B, AS PER PLAN		
60	611E05900	4674	FT	15" CONDUIT, TYPE B		
61	611E05900	100	FT	15" CONDUIT, TYPE B, 707.33		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
62	611E06100	244	FT	15" CONDUIT, TYPE C		
63	611E07200	505	FT	18" CONDUIT, TYPE B		
64	611E07600	129	FT	18" CONDUIT, TYPE C		
65	611E10400	188	FT	24" CONDUIT, TYPE B		
66	611E23800	50	FT	60" CONDUIT, TYPE B		
67	611E26200	50	FT	72" CONDUIT, TYPE B		
68	611E97300	1	LS	CONDUIT, MISC.: CLEVELAND AVENUE, UNDERGROUND UTILITIES		
69	611E98151	46	EACH	CATCH BASIN, NO. 3, AS PER PLAN		
70	611E98181	79	EACH	CATCH BASIN, NO. 3A, AS PER PLAN		
71	611E98471	1	EACH	CATCH BASIN, NO. 2-2B, AS PER PLAN		
72	611E98634	1	EACH	CATCH BASIN RECONSTRUCTED TO GRADE		
73	611E98690	1	EACH	CATCH BASIN, MISC.: CANTON STD. DWG. NO.4, AS PER PLAN		
74	611E99654	34	EACH	MANHOLE ADJUSTED TO GRADE		
75	611E99660	63	EACH	MANHOLE RECONSTRUCTED TO GRADE		
76	611E99661	3	EACH	MANHOLE RECONSTRUCTED TO GRADE, AS PER PLAN		
77	611E99690	22	EACH	MANHOLE, MISC.: CANTON STD. DWG. NO. 10		

PID 85299				GP1098, 12th St. N Corridor Project		
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
78	611E99820	10000	LB	MISCELLANEOUS METAL		
	PAVEMENT					
79	253E01000	345	SY	PAVEMENT REPAIR		
80	253E02000	136	CY	PAVEMENT REPAIR		
81	254E01000	39793	SY	PAVEMENT PLANING, ASPHALT CONCRETE		
82	301E46000	925	CY	ASPHALT CONCRETE BASE, PG64-22		
83	301E48000	133	CY	ASPHALT CONCRETE BASE, PG64-22 (DRIVEWAYS)		
84	304E20000	6147	CY	AGGREGATE BASE		
85	305E10000	26799	SY	6" CONCRETE BASE CLASS QC1		
86	305E17500	1995	SY	CONCRETE BASE, MISC.: 3" CONCRETE BASE USED UNDER BRICK PAVERS		
87	407E10000	2592	GAL	TACK COAT		
88	407E14000	4786	GAL	TACK COAT FOR INTERMEDIATE COURSE		
89	424E10000	1329	CY	FINE GRADED POLYMER ASPHALT CONCRETE, TYPE A		
90	448E46040	2659	CY	ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE 2, PG64-28		
91	448E48020	27	CY	ASPHALT CONCRETE SURFACE COURSE, TYPE 1, PG64-22 (DRIVEWAYS) 1.25"		
92	452E10010	822	SY	6" NON-REINFORCED CONCRETE PAVEMENT, CLASS QC1		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
93	452E11010	2273	SY	7" NON-REINFORCED CONCRETE PAVEMENT, CLASS QC1		
94	452E14010	3009	SY	10" NON-REINFORCED CONCRETE PAVEMENT, CLASS QC1		
95	452E19200	1200	SY	NON-REINFORCED CONCRETE PAVEMENT, MISC.: CLASS QC FS		
96	452E19200	1200	SY	NON-REINFORCED CONCRETE PAVEMENT, MISC.: CLASS QC MS		
97	452E19250	25440	SF	NON-REINFORCED CONCRETE PAVEMENT, MISC.: ROADWAY BRICK PAVERS		
98	609E22001	327	FT	CURB, TYPE 3-B, AS PER PLAN		
99	609E26000	26001	FT	CURB, TYPE 6		
100	609E28000	74	FT	CURB, TYPE 7		
101	609E30000	647	FT	CURB, TYPE 8		
102	609E54000	3	SY	6" CONCRETE TRAFFIC ISLAND		
103	609E98000	417	FT	CURB, MISC.: QUICK KURB MEDIAN		
104	690E50500	24	EACH	CONCRETE PARKING BLOCK		
105	900E10000	200	FT	RAIL ITEM, MISC.: COMPRESSIBLE FLANGEWAY FILLER		
WATER WORK						
106	638E00604	440	FT	6" WATER MAIN DUCTILE IRON PIPE ANSI CLASS 53, PUSH-ON JOINTS AND FITTINGS		
107	638E00604	84	FT	20" WATER MAIN DUCTILE IRON PIPE ANSI CLASS 53, PUSH-ON JOINTS AND FITTINGS		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
108	638E10201	8	EACH	6" FIRE HYDRANT, AS PER PLAN		
109	638E10301	8	EACH	FIRE HYDRANT EXTENDED AND ADJUSTED TO GRADE, AS PER PLAN		
110	638E10600	1	EACH	FIRE HYDRANT AND GATE VALVE REMOVED AND RESET		
111	638E10700	8	EACH	FIRE HYDRANT REMOVED AND DISPOSED OF		
112	638E10800	103	EACH	VALVE BOX ADJUSTED TO GRADE		
113	638E10900	11	EACH	SERVICE BOX ADJUSTED TO GRADE		
114	638E98000	228	EACH	WATER WORK, MISC.: SERVICE BOX RELOCATED		
	LIGHTING					
115	625E00450	696	EACH	CONNECTION, FUSED PULL APART		
116	625E00460	232	EACH	CONNECTION, UNFUSED PULL APART		
117	625E10481	208	EACH	LIGHT POLE, DECORATIVE, AS PER PLAN		
118	625E14501	208	EACH	LIGHT POLE FOUNDATION, AS PER PLAN		
119	625E23100	113408	EACH	NO. 6 AWG 600 VOLT DISTRIBUTION CABLE		
120	625E23410	26640	FT	NO. 12 AWG POLE AND BRACKET CABLE		
121	625E25403	27836	FT	CONDUIT, 2", 725.05, AS PER PLAN		
122	625E27551	416	FT	LUMINAIRE, DECORATIVE, AS PER PLAN		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
123	625E27551	24	EACH	LUMINAIRE, DECORATIVE, AS PER PLAN		
124	625E29000	27836	EACH	TRENCH		
125	625E29401	516	FT	TRENCH IN PAVED AREAS, AS PER PLAN		
126	625E31600	63	FT	PULL BOX, MISC.: 725.06, 17" X 30"		
127	625E31600	4	EACH	PULL BOX, MISC.: 725.06, 13" X 24"		
128	625E32000	215	EACH	GROUND ROD		
129	625E34001	7	EACH	POWER SERVICE, AS PER PLAN		
130	625E36000	278236	EACH	PLASTIC CAUTION TAPE		
131	625E98000	155	EACH	LIGHTING, MISC.: REMOVAL OF LIGHT POLE AND/OR WOOD POLE		
	TRAFFIC CONTROL					
132	630E03100	673	EACH	GROUND MOUNTED SUPPORT, NO. 3 POST		
133	630E08004	29	FT	ONE WAY SUPPORT, NO. 3 POST		
134	630E08520	806	FT	STREET NAME SIGN SUPPORT, NO. 3 POST		
135	630E08600	58	FT	SIGN POST REFLECTOR		
136	630E10603	2	EACH	OVERHEAD SIGN SUPPORT, TYPE TC-16.21, DESIGN 6, AS PER PLAN		
137	630E10903	2	EACH	OVERHEAD SIGN SUPPORT, TYPE TC-16.21, DESIGN 9, AS PER PLAN		

PID 85299		GP1098, 12th St. N Corridor Project				
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
138	630E11003	1	EACH	OVERHEAD SIGN SUPPORT, TYPE TC-16.21, DESIGN 10, AS PER PLAN		
139	630E79100	60	EACH	SIGN HANGER ASSEMBLY, MAST ARM		
140	630E79500	177	EACH	SIGN SUPPORT ASSEMBLY, POLE MOUNTED		
141	630E80100	1801.3	EACH	SIGN, FLAT SHEET		
142	630E80501	79	EACH	SIGN, DOUBLE FACED, STREET NAME, AS PER PLAN		
143	630E80511	30	EACH	SIGN, STREET NAME, AS PER PLAN		
144	630E82000	2	EACH	SIGN BACKING ASSEMBLY		
145	630E84510	5	EACH	RIGID OVERHEAD SIGN SUPPORT FOUNDATION		
146	630E85000	150	EACH	REMOVAL OF GROUND MOUNTED SIGN AND STORAGE		
147	630E86002	87	EACH	REMOVAL OF GROUND MOUNTED POST SUPPORT AND DISPOSAL		
148	630E87000	66	EACH	REMOVAL OF OVERHEAD MOUNTED SIGN AND STORAGE		
149	630E87510	113	EACH	REMOVAL OF POLE MOUNTED SIGN AND STORAGE		
150	630E89702	3	EACH	REMOVAL OF OVERHEAD SIGN SUPPORT AND DISPOSAL		
151	644E00100	7.57	EACH	EDGE LINE, 4"		
152	644E00200	1.31	MILE	LANE LINE, 4"		
153	644E00300	3.68	MILE	CENTER LINE		

PID 85299		GP1098, 12th St. N Corridor Project					
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST	
154	644E00400	5391	MILE	CHANNELIZING LINE, 8"			
155	644E00500	1144	FT	STOP LINE			
156	644E00600	1881	FT	CROSSWALK LINE			
157	644E00700	388	FT	TRANSVERSE/DIAGONAL LINE			
158	644E00900	39	FT	ISLAND MARKING			
159	644E01000	4	SF	RAILROAD SYMBOL MARKING			
160	644E01110	1	EACH	SCHOOL SYMBOL MARKING, 96"			
161	644E01300	160	EACH	LANE ARROW			
162	644E01382	1	EACH	WORD ON PAVEMENT, 48"			
163	644E01500	1034	FT	DOTTED LINE, 4"			
164	644E01602	70	EACH	BIKE LANE SYMBOL MARKING			
165	644E20800	70	FT	YIELD LINE			
166	646E10200	0.04	MILE	CENTER LINE			
	TRAFFIC SIGNALS						
167	625E25402	12171	FT	CONDUIT, 2", 725.05			
168	625E25502	5386	FT	CONDUIT, 3", 725.05			

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
169	625E25900	102	FT	CONDUIT, JACKED OR DRILLED 3"		
170	625E29000	2217	FT	TRENCH		
171	625E29401	745	FT	TRENCH IN PAVED AREAS, AS PER PLAN		
172	625E31600	73	EACH	PULL BOX, MISC.: 725.06, 13" X 24"		
173	625E31600	8	EACH	PULL BOX, MISC.: 725.06, 17" X 30"		
174	625E31600	8	EACH	PULL BOX, MISC.: 725.06, 24" X 36"		
175	625E31600	12	EACH	PULL BOX, MISC.: 725.06, 36" X 36"		
176	625E32000	35	EACH	GROUND ROD		
177	625E36000	797	FT	PLASTIC CAUTION TAPE		
178	630E97700	2	EACH	SIGNING MISC.: LED BLANK-OUT SIGN		
179	632E04911	59	EACH	VEHICULAR SIGNAL HEAD, (LED) BLACK, 3-SECTION, 12" LENS, 1-WAY, WITH BACKPLATE, AS PER PLAN		
180	632E04921	18	EACH	VEHICULAR SIGNAL HEAD, (LED) BLACK, 5-SECTION, 12" LENS, 1-WAY, WITH BACKPLATE, AS PER PLAN		
181	632E20721	66	EACH	PEDESTRIAN SIGNAL HEAD (LED), (COUNTDOWN), TYPE D2, AS PER PLAN		
182	632E25000	71	EACH	COVERING OF VEHICULAR SIGNAL HEAD		
183	632E25010	62	EACH	COVERING OF PEDESTRIAN SIGNAL HEAD		
184	632E26001	62	EACH	PEDESTRIAN PUSHBUTTON, AS PER PLAN		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
185	632E40300	616	FT	SIGNAL CABLE, 3 CONDUCTOR, NO. 14 AWG		
186	632E40700	11969	FT	SIGNAL CABLE, 7 CONDUCTOR, NO. 14 AWG		
187	632E53202	300	FT	INTERCONNECT CABLE, 6 PAIR, NO. 19 AWG, SOLID, REA (PE-39)		
188	632E64011	25	EACH	SIGNAL SUPPORT FOUNDATION, AS PER PLAN		
189	632E66101	900	FT	POWER CABLE, 1 CONDUCTOR, NO. 10 AWG, AS PER PLAN		
190	632E69500	1800	FT	SERVICE CABLE, 2 CONDUCTOR, NO. 6 AWG		
191	632E70001	9	EACH	POWER SERVICE, AS PER PLAN		
192	632E80700	20	EACH	SIGNAL SUPPORT, MISC.: NOSTALGIA SIGNAL SUPPORT, SINGLE ARM		
193	632E80700	5	EACH	SIGNAL SUPPORT, MISC.: NOSTALGIA SIGNAL SUPPORT, DOUBLE ARM		
194	632E90101	12	EACH	REMOVAL OF TRAFFIC SIGNAL INSTALLATION, AS PER PLAN		
195	632E90200	2	EACH	REUSE OF VEHICULAR SIGNAL HEAD		
196	632E90400	8	EACH	SIGNALIZATION, MISC.: PAN TILT ZOOM CAMERA		
197	633E01581	10	EACH	CONTROLLER UNIT, TYPE TS2/A2, WITH CABINET, TYPE TS1, AS PER PLAN		
198	633E67000	1	EACH	CABINET RISER		
199	633E67100	9	EACH	CABINET FOUNDATION		
200	633E67200	8	EACH	CONTROLLER WORK PAD		

PID 85299		GP1098, 12th St. N Corridor Project				
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
201	633E67300	9	EACH	PREEMPTION		
202	633E67310	34	EACH	PREEMPTION RECEIVING UNIT		
203	633E67321	6150	FT	PREEMPTION DETECTOR CABLE, AS PER PLAN		
204	633E67350	11	EACH	PREEMPTION PHASE SELECTOR		
205	633E72500	1	LS	SYSTEM ANALYSIS		
206	633E75001	9	EACH	UNINTERRUPTIBLE POWER SUPPLY (UPS), 1000 WATT		
207	633E99000	1	EACH	CONTROLLER ITEM, MISC.: INDICATOR PANEL		
208	633E99000	1	EACH	CONTROLLER ITEM, MISC.: RAILROAD PREEMPTION		
209	633E99000	11	EACH	CONTROLLER ITEM, MISC.: FIBER OPTIC ETHERNET TRANSCEIVER		
210	633E99000	48	EACH	CONTROLLER ITEM, MISC.: UPGRADE EXISTING CITY SIGNAL SYSTEMS		
211	633E99300	1	LS	CONTROLLER ITEM, MISC.: CENTRAL SIGNAL SYSTEM, (ECONOLITE "CENTRACS")		
212	633E99300	1	LS	CONTROLLER ITEM, MISC.: CENTRAL SIGNAL SYSTEM FURNITURE	\$15,000	\$15,000
213	633E99300	1	LS	CONTROLLER ITEM, MISC.: ADAPTIVE ALGORITHM		
214	804E20034	13599	FT	FIBER OPTIC CABLE, ARMORED		
215	804E30010	36	EACH	FAN-OUT KIT, 12 FIBER		
216	804E32010	20	EACH	DROP CABLE, 12 FIBER		

PID 85299				GP1098, 12th St. N Corridor Project		
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
217	804E33990	30	EACH	FIBER OPTIC PATCH CORD, 1 FIBER		
218	804E34022	12	EACH	TERMINATION PANEL, 24 FIBER		
219	804E35000	228	EACH	FUSION SPLICE		
220	804E36000	13	EACH	SLACK INSTALLATION		
221	804E37000	10	EACH	SPLICE ENCLOSURE		
222	804E37500	26	EACH	FIBER OPTIC CONNECTOR		
223	804E37700	1	LS	FIBER OPTIC CABLE TESTING		
224	816E30001	31	EACH	VIDEO DETECTION SYSTEM, AS PER PLAN PER APPROACH		
225	816E30100	1	LS	TRAINING FOR VIDEO DETECTION SYSTEM		
LANDSCAPING						
226	661E31000	5800	GAL	LANDSCAPE WATERING		
227	661E40080	258	EACH	DECIDUOUS TREE, 2" CALIPER		
228	661E99900	230	EACH	PLANTING, MISC.: TREE GRATE (CANTON STD. DWG. NO. 43)		
229	661E99920	16600	SF	PLANTING, MISC.: BRICK PAVERS (CANTON STD. DWG. NO. 40,43)		
RETAINING WALLS						
230	610E50020	932	FT	RETAINING WALL, MISC.: NEW RETAINING WALL CONSTRUCTION		

PID 85299				GP1098, 12th St. N Corridor Project		
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
231	610E50020	374	FT	RETAINING WALL, MISC.: WALL REMOVAL		
232	610E60000	1	LS	RETAINING WALL, MISC.: REMOVAL AND RECONSTRUCTION		
233	610E60000	1	LS	RETAINING WALL, MISC.: REMOVAL AND REPLACEMENT		
BUILDING DEMOLITION						
234	202E56001	1	LS	BUILDING DEMOLISHED PARCEL 236 WD, 2-STORY BRICK/GLASS BUILDING		
235	202E56001	1	LS	BUILDING DEMOLISHED PARCEL 73 WD, 2-STORY BRICK BUILDING		
236	202E56001	1	LS	BUILDING DEMOLISHED PARCEL 122 WD-1, 1-STORY BRICK BUILDING		
MAINTENANCE OF TRAFFIC						
237	410E12000	300	CY	TRAFFIC COMPACTED SURFACE, TYPE A OR B		
238	614E11110	50	HOUR	LAW ENFORCEMENT OFFICER WITH PATROL CAR FOR ASSISTANCE		
239	614E12338	54	EACH	WORK ZONE IMPACT ATTENUATOR (BIDIRECTIONAL)		
240	614E12420	1	LS	DETOUR SIGNING		
241	614E13000	300	CY	ASPHALT CONCRETE FOR MAINTAINING TRAFFIC		
242	614E13300	122	EACH	BARRIER REFLECTOR, TYPE B		
243	614E20100	0.65	MILE	WORK ZONE LANE LINE, CLASS I, 642 PAINT		
244	614E20550	1.31	MILE	WORK ZONE LANE LINE, CLASS III, 642 PAINT		

PID 85299			GP1098, 12th St. N Corridor Project			
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
245	614E21100	5.89	MILE	WORK ZONE CENTER LINE, CLASS I, 642 PAINT		
246	614E21550	3.62	MILE	WORK ZONE CENTER LINE, CLASS III, 642 PAINT		
247	614E22100	6.47	MILE	WORK ZONE EDGE LINE, CLASS I, 642 PAINT		
248	614E22350	7.79	MILE	WORK ZONE EDGE LINE, CLASS III, 642 PAINT		
249	614E23200	4147	FT	WORK ZONE CHANNELIZING LINE, CLASS I, 642 PAINT		
250	614E23680	5376	FT	WORK ZONE CHANNELIZING LINE, CLASS III, 642 PAINT		
251	614E24200	731	FT	WORK ZONE DOTTED LINE, CLASS I, 642 PAINT		
252	614E24610	891	FT	WORK ZONE DOTTED LINE, CLASS III, 642 PAINT		
253	614E25620	312	FT	WORK ZONE TRANSVERSE/DIAGONAL LINE, CLASS III, 642 PAINT		
254	614E26200	1315	FT	WORK ZONE STOP LINE, CLASS I, 642 PAINT		
255	614E26610	1121	FT	WORK ZONE STOP LINE, CLASS III, 642 PAINT		
256	614E27200	207	FT	WORK ZONE CROSSWALK LINE, CLASS I, 642 PAINT		
257	614E30200	72	EACH	WORK ZONE ARROW, CLASS I, 642 PAINT		
258	614E30650	141	EACH	WORK ZONE ARROW, CLASS III, 642 PAINT		
259	615E25000	90	SY	PAVEMENT FOR MAINTAINING TRAFFIC, CLASS B		
260	616E10000	55	MGAL	WATER		

PID 85299				GP1098, 12th St. N Corridor Project		
REF	ITEM	QTY.	UNIT	DESCRIPTION	UNIT	COST
261	622E41000	4870	FT	PORTABLE BARRIER, 32"		
	MISCELLANEOUS					
262	614E11000	1	LS	MAINTAINING TRAFFIC		
263	623E10000	1	LS	CONSTRUCTION LAYOUT STAKES		
264	624E10000	1	LS	MOBILIZATION		
265	990E30000	1	LS	PERFORMANCE BOND		
266	690E98400	1	LS	PRE-CONSTRUCTION VIDEO TAPING, AS PER PROPOSAL		
267	108E10000	1	LS	CPM PROGRESS SCHEDULE		
TOTAL CONTRACT						

ALTERNATE BID ITEMS

268	614E11000	1	LS	MAINTAINING TRAFFIC (ALTERNATE BID PER SHEET 21)		
269	633E01581	10	EACH	CONTROLLER UNIT, TYPE TS2/A2, WITH CABINET, TYPE TS1, AS PER PLAN (INTELIGHT)		
270	633E99300	1	LS	CONTROLLER ITEM MISC.: CENTRAL SIGNAL SYSTEM, (INTELIGHT)		
271	816E30001	30	EACH	VIDEO DETECTION SYSTEM (TRAFICON), AS PER PLAN		

PID 85299, 12th St. N Corridor Project, GP 1098

TOTAL BID \$ _____

For informational purposes only, total unit prices will govern

CONTRACTOR: _____

