

COMPILATION OF APPROVED SPECIFICATIONS

**RHODE ISLAND DEPARTMENT OF TRANSPORTATION
STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION**

**REVISIONS
SUPPLEMENTAL SPECIFICATIONS
SPECIAL PROVISIONS**

SUPPLEMENT NO. 22

November 2021

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
100	General Requirements and Covenants.....	AC22-1
413	Rideability – Surface Course.....	AC22-105
416	Pay Adjustments.....	AC22-109

Remove **Part 100 General Requirements and Covenants**, pages 1-1 to 1-96 of the RI Standard Specifications for Road and Bridge Construction and replace it with the following.

DIVISION I PART 100

GENERAL REQUIREMENTS AND COVENANTS

SECTION 101

DEFINITIONS AND TERMS

101.01 GENERAL. The titles and headings of the Sections and Subsections are intended for convenience and do not bear on the meaning of the text. A cross-reference to a specific Subsection of these Specifications includes all general requirements of the Section of which the Subsection is a part.

When a publication is specified, it refers to the most recent date of issue, including all current updates and official interpretations, prior to the date of Proposal Bid opening for the Project unless the publication issue has a specific date or year specified.

Acronyms, abbreviations, terms, or pronouns used in the Contract, shall be interpreted as defined in this section.

101.02 ACRONYMS AND ABBREVIATIONS. Acronyms and abbreviations used in the Contract shall mean the following:

AADT	Annual Average Daily Traffic
AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
AGC	Associated General Contractors of America
AI	Asphalt Institute
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ALS	American Lumber Standards
ANSI	American National Standards Institute
ARA	American Railway Association
AREA	American Railway Engineering Association
ARTBA	American Road and Transportation Builders Association
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects
ASTM	American Society for Testing and Materials
AWPA	American Wood Preservers' Association
AWS	American Welding Society

AWWA	American Water Works Association
CFR	Code of Federal Regulations
CPA	Certified Public Accountant
CPM	Critical Path Method
CRSI	Concrete Reinforcing Steel Institute
DHV	Design Hourly Volume
EPA	Environmental Protection Agency
ESAL	Equivalent Single Axle Loads
FHWA	Federal Highway Administration; U.S. Department of Transportation
FSS	Federal Specifications and Standards
IME	Institute of Makers of Explosives
IMSA	International Municipal Signal Association
MASH	Manual for Assessing Safety Hardware
MIL	Military Specifications
MUTCD	Manual on Uniform Traffic Control Devices (For Streets & Highways)
NCHRP	National Cooperative Highway Research Program
NEC	National Electrical Code
NESC	National Electrical Safety Code
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
NRMCA	National Ready-Mix Concrete Association
NTPEP	National Transportation Product Evaluation Program
OSHA	Occupational Safety and Health Administration
QCP	Quality Control Plan
RIDOT	Rhode Island Department of Transportation
RIGL	General Laws of the State of Rhode Island
ROC	Report of Change
SAE	Society of Automotive Engineers
SSPC	Steel Structures Painting Council
TMP	Transportation Management Plan
UL	Underwriters Laboratory
USC	United States Code
USGS	United States Geological Survey

101.03 ACCEPTANCE. The Engineer's decision that the Contractor's Work is in conformance with the Contract.

101.04 ACTS OF NATURE. Events in nature so extraordinary that the history of climate variations and other conditions in the particular locality affords no reasonable warning of or preparation for them, including but not limited to earthquakes, lightning strikes, tidal waves, tornadoes, hurricanes, floods, or other cataclysmic phenomena of nature.

101.05 ADDITIONAL WORK. Work which results from a change or alteration in the Contract and for which there are existing contract unit prices.

101.06 ADJUSTMENT. A modification to the Contract Price or Time occasioned by the performance of Work beyond that required by the original Contract, including but not limited to

Additional Work, Extra Work, Differing Site Conditions, Altered Work or Significant Changes in the Character of Work, and Suspensions of Work.

101.07 ADVERTISEMENT. A public announcement inviting bids for work to be performed and/or materials to be furnished.

101.08 APPROVAL. The Engineer's review and concurrence of the Contractor's submittals, submissions, or Work for conformance with the Contract. The Engineer's approval does not relieve the Contractor from any requirements of the Contract. Approval does not constitute acceptance. The terms "Approval" and "Approved" are used synonymously.

101.09 AWARD. The executed Contract Agreement and a Purchase Order issued by the State. The Award date shall be the date of the Purchase Order.

101.10 BID. The written offer of a Bidder, submitted on prescribed forms generated by the Department's bid preparation software, to perform the Work at the Contract Price and within the Contract Time and unit prices quoted. The terms "Bid" and "Proposal" are used synonymously.

101.11 BID BOND. The security furnished by the Bidder with the bid as a guaranty that the Bidder will execute the Contract Agreement if his bid is accepted by the State. The Bid Bond shall be provided by a surety acceptable to the State and licensed and authorized to conduct business in the State of Rhode Island and must be listed with the Department of the Treasury, Fiscal Services, Circular 570 (latest revision published by the Federal Register). The terms "Bid Bond" and "Proposal Guaranty" are used synonymously.

101.12 BIDDER. An individual, partnership, firm, corporation, joint venture, or legal entity formally submitting a Bid pursuant to the Advertisement. The terms "Bidder" and "Contractor" are used synonymously.

101.13 BID DOCUMENTATION. All writings, working papers, computer printouts, charts, computer data files associated with the preparation and/or submittal of a Bid, and all other information, data or calculations used by the Contractor to determine its Bid for a project. Bid documentation includes all materials relating to the determination and application of equipment rates, overhead rates, labor rates, production rates and productivity factors, calculations, schedules for time or any determination of time related to project overhead, as well as quotations from subcontractors and material suppliers to the extent that such rates and quotations were used by the Contractor in formulating and determining the amount of its Bid. Bid documentation also includes any manuals used by the Contractor in determining its Bid. These manuals may be included in the bid documentation by reference and will show the name and date of the publication and the publisher. The term does not include bid documents provided by the Department for use by the Contractor in bidding on a project.

101.14 BID SCHEDULE. The portion of the Proposal form where the various Contract Items are listed in a numbered sequence, and which includes the unit prices entered by the Bidder, the estimated quantities by the Department, and the extended total bid amounts of each item, which are computed by the bid preparation software.

101.15 BRIDGE. A structure, including supports, erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other

moving loads and having a length measured along the center of roadway of more than twenty (20) feet between undercopings of abutments or extreme ends of openings for multiple boxes.

a. Bridge Length. The length of a bridge structure is the over-all length measured along the line of survey stationing back-to-back of backwalls of abutments, if present, otherwise end to end of the bridge floor; but in no case less than the total clear opening of the structure.

b. Bridge Roadway Width. The clear width measured at right angles to the longitudinal centerline of the bridge between the bottom of curbs or in the case of multiple height of curbs, between the bottom of the lower risers or in the case of no curbs, between the inner faces of parapet of railing.

101.16 CALENDAR DAY. A day shown on the calendar comprising the 24-hr. period beginning and ending at midnight.

101.17 CLAIM. A formal, written notification certified by the Contractor to the State, asserting or justifying the right to additional compensation and/or Contract time, or other changes to the Contract.

101.18 COMPLETION. The compliance with all Contract requirements including the delivery of all documents, certificates, and proofs of compliance to the Engineer, and the State has issued its Final Acceptance. The terms "Completion" and "Final Completion" are used synonymously.

101.19 CONSTRUCTION AND MAINTENANCE AGREEMENT/UTILITIES. An agreement between the State, acting through its Department of Transportation, and the Owners of Utilities (Owners). Owners may be either Municipalities or private Utility Companies. The agreements establish conditions for removing, relocating, or otherwise altering the location of utilities to facilitate proposed highway construction work. They divide responsibility for such alterations between the two parties and establish payment procedures by which the State will reimburse the Owners for Cost they incur in performing their respective portions of the Work.

101.20 CONSTRUCTION MANAGER. The authorized field representative of and working under the direct supervision of the Engineer. The Construction Manager's main responsibility is to supervise construction for the purpose of assuring compliance with approved plans and specifications, and the terms of the Contract. The terms "Construction Manager" and "Resident Engineer" are used synonymously.

101.21 CONTRACT. The formal written agreement between the State and the Contractor for the performance of the prescribed work and consisting of the following:

- a. Purchase Order.** A document issued by the State and transmitted to the Contractor with copies of the executed Contract, which indicates that appropriate accounts have been established and that funds have been assigned to those accounts for the purpose of reimbursing the Contractor for its Work in implementing the Contract.
- b. Contract Agreement.** The written agreement, executed by the State and the Contractor setting forth the obligations of the parties for the performance of the Work.
- c. Contract Documents.** The Notice to Contractor (advertisement for bids); The Contract Award Booklet; Proposal; Contract Bond(s); Standard Specifications; Supplemental Specifications; Special Provisions; General and Detailed Plans; Notice of Award; Notice to Proceed; and any subsequently executed Contract Addenda that are required to complete

the construction of the Work in an acceptable manner, including authorized Contract Time Extensions.

- d. One Instrument.** The Purchase Order, executed Contract Agreement and the Contract Documents constitute one instrument; i.e., the Contract.

101.22 CONTRACT ADDENDUM. Any change to the Contract made after its initial execution, which change shall become part of the Contract Agreement. Contract Addenda must be in writing and executed by the original signatories, or their successors in interest, or their designees. The terms "Contract Addendum" and "Contract Amendment" are used synonymously.

101.23 CONTRACT AWARD BOOKLET. A document provided to the Contractor after the award of the Contract containing the following elements of the Contract Documents: Notice to Contractors; the Bidder's Proposal; executed copies of both the Contract Agreement and Contract Bonds; and a Contract Award compact disc (CD), or other media, containing the RI Standard Specifications for Road and Bridge Construction, Supplemental Specifications, Special Provisions, Required Contract Provisions for Federal-Aid Projects, Federal Wage Rates, all Contract Addenda issued prior to the date of the opening of proposals, Distribution of Quantities, Plans, Appendices and Bid Tabulation Reports.

101.24 CONTRACT BID PACKAGE. A compact disc (CD), or other media, provided to prospective bidders for bid preparation purposes, containing the following items: RI Standard Specifications for Road and Bridge Construction, Supplemental Specifications, Special Provisions, Required Contract Provisions for Federal-Aid Projects, Federal Wage Rates, Distribution of Quantities, Plans, Appendices, the installation program for the bid preparation software, and a bid file for import to the bid preparation software.

101.25 CONTRACT BOND. The approved security furnished by the Contractor and its Surety or Sureties as a guaranty to fulfill the terms of the Contract and all amendments thereto, and to pay all legal debts pertaining to the construction of the project.

101.26 CONTRACT ITEM. An item of Work, as provided in the Contract, for which a price is provided in the Proposal. The terms "Contract Item", "Pay Item" and "Bid Item" are used synonymously.

101.27 CONTRACT PRICE. The total amount of the Award.

101.28 CONTRACT TIME. The number of days allowed for the completion of the Contract, or the date by which the Contract shall be completed as stated in the Proposal, including any approved time extensions. Unless otherwise provided in the Contract, the Contract Time includes Winter Shutdown. The terms "Contract Time" and "Contract Completion Date" are used synonymously.

101.29 CONTRACTOR. The individual, partnership, firm, corporation, joint venture, or legal entity, contracting with the State for performance of the Work. The terms "Contractor" and "Bidder" are used synonymously.

101.30 COST. The Contractor's actual expenses to provide labor, material, equipment (owned or rented), and administrative overhead necessary for the Work. The Contractor is required to substantiate such costs with documentation (i.e., paid invoices, certified payrolls, financial

statements) as required by the Engineer. The State may audit the Contractor's financial records to determine these expenses.

101.31 COUNTY. The administrative division of cities and towns according to RIGL and is the location of the Work to be performed pursuant to the Contract.

101.32 CRITICAL PATH. The longest path of activities through a project or a specified milestone/phase that determines the project duration and the anticipated Substantial Completion date.

101.33 CULVERT. A structure not classified as a Bridge that provides an opening under any highway.

101.34 DAILY CHARGE. The monetary per diem rate(s) for Liquidated Damages specified in the Contract.

101.35 DELAY. An event, action, or factor causing all or a portion of the Work to extend beyond the specified Contract Time. The Department specifically recognizes the following types of delays: Excusable, Non-Compensable Delays; Excusable, Compensable Delays; Non-Excusable Delays; Weather Delays; and Concurrent Delays. Each of these types is further detailed in **Subsection 108.07**.

101.36 DEPARTMENT. The State of Rhode Island Department of Transportation (RIDOT).

101.37 DIG SAFE. A one-call damage prevention system, established and funded by public utilities that own and operate underground facilities within the State, for the purpose of receiving and giving notice of proposed excavation activity pursuant to RIGL.

101.38 DISTRIBUTION OF QUANTITIES. A document provided as part of the Contract Bid Package that provides the following information for each Contract Item in the Proposal: Item Number, Item Code, Item Description, Item Unit of Measure, approximate locations where the Item is to be provided, estimated Item quantities at each location and total estimated Item quantity.

101.39 DIVISION OF PURCHASES. The Division within the Rhode Island Department of Administration primarily responsible for Contract Procurement.

101.40 ENGINEER. The Chief Engineer or equivalent of RIDOT, acting directly or through his or her duly authorized representatives, who is a full-time employed State engineer responsible for engineering and administrative supervision of the Contract. The Engineer is the highest-ranking individual within the Project Management Division as organized by RIDOT who meets the definition of engineer as found in Rhode Island General Law § 5-8-2(e). The Engineer is the individual with responsible charge who may delegate the day-to-day responsibilities for the project and will be identified on an annual basis. The Engineer will maintain responsibility for the project and will have oversight over those staff that are designated for day-to-day field operation.

101.41 EQUIPMENT. All machinery, tools, apparatus, and supplies necessary to preserve, maintain, construct, and complete the Work.

101.42 EXTRA WORK. Work not provided for in the Contract as awarded but found essential by the Engineer for the satisfactory completion of the Contract within its intended scope.

101.43 FAILURE TO COMPLY CHARGE. A specified amount charged for non-compliance with the Contract.

101.44 FINANCIAL STATEMENTS. A set of reports detailing, on an annual, semi-annual, or other prescribed time period, the financial activity of a company, corporation, or other business venture. For purposes of Post Qualification and Award, these shall include the following:

- a. For Contracts valued at over \$1,000,000, a complete set of audited financial statements prepared by a CPA in accordance with the Generally Accepted Accounting Principles (GAAP);
- b. For Contracts valued between \$500,000 and \$1,000,000, a minimum of a financial review statement prepared by a CPA; and
- c. For Contracts valued under \$500,000, a minimum of a financial compilation statement prepared by a CPA.

101.45 FORCE ACCOUNT. A method of payment for Work performed by the Contractor at the Engineer's direction, calculated as specified in **Subsection 109.04**.

101.46 GEOTEXTILE. A permeable textile material used with foundation, soil, rock, earth, drainage, or any other geotechnical engineering related material, as an integral part of a man-made project, structure, or system.

101.47 HIGHWAY, STREET, OR ROAD. A general term denoting a public way for purposes of vehicular and pedestrian travel, including the entire area within the Right-of-Way. The terms "highway", "street" and "road" are used synonymously.

101.48 HOLIDAYS. In the State of Rhode Island, legal holidays occur on New Year's Day; Martin Luther King Day; Memorial Day; Independence Day; Victory Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; and Christmas. If any holiday listed above falls on a Saturday or Sunday, the following Monday shall be considered a holiday.

101.49 INCIDENTAL. Work performed under the provisions of the Contract and for which no direct compensation is required.

101.50 LABORATORY. A testing facility of the Department or any other testing facility which may be designated or approved by the Engineer. On Federal-Aid projects, all laboratories must be accredited or qualified, as applicable, in accordance with the CFR.

101.51 LIQUIDATED DAMAGES. The daily amount set forth in the Contract to cover additional costs incurred by the State because of the Contractor's failure to complete the Work within time required by the Contract.

101.52 MAJOR AND MINOR CONTRACT ITEMS. Any item having an original value in excess of 5 percent of the original Contract amount will be a major item. All other original Contract items will be minor items.

101.53 MATERIALS. Any substances specified for use in the construction of the Project.

101.54 NON-RESPONSIVE PROPOSAL. A proposal that is not eligible for Award consideration as determined by the State pursuant to **Subsection 102.07**.

101.55 NOTICE OF TENTATIVE AWARD. A written communication from the State to the successful Bidder indicating the conditional intention of the State to award the Contract. This communication instructs the successful Bidder to arrange the Contract Agreement and Contract Bond, and for the delivery of the required Certificates of Insurance.

101.56 NOTICE TO CONTRACTORS. A public announcement, inviting Bids for work to be performed and/or materials to be furnished. Such Notice will indicate with reasonable accuracy the nature and location of the work to be performed; the time and place of the opening of Proposals; and any Contract statutory provisions required by the Federal Government or the State.

101.57 NOTICE TO PROCEED. Written notice to the Contractor to proceed with the Work.

101.58 PAVEMENT STRUCTURE. The combination of subbase, base course and surface course placed on a subgrade to support the traffic load and distribute it to the subgrade.

- a. **Pavement Subgrade.** The top surface of the roadbed on which subbase, base course, surface course, pavement, or layers of similar materials are placed.
- b. **Subbase.** The layers of specified or selected material of designed thickness placed on a subgrade to support a base course.
- c. **Base Course.** The one or more layers of specified material and thickness placed on a subbase or a subgrade to support a surface course.
- d. **Surface Course.** One or more layers of a pavement structure designed to accommodate the traffic load, the top layer of which resists skidding, traffic abrasion, and the disintegrating effects of climate. The top layer is sometimes called the "wearing surface."

101.59 PHASE COMPLETION. The Substantial Completion of a portion of the Work as set forth in the Contract. The terms "Phase", "Milestone", and "Interim" are used synonymously.

101.60 PLANS. The State's Contract drawings, profiles, typical cross sections, standard details, notes, and supplemental drawings or exact reproductions showing the location, character, dimensions, and details of the Work. "Plans" and "Contract Drawings" are used synonymously.

101.61 PRECONSTRUCTION CONFERENCE. A meeting between the State and the Contractor to discuss the project before the Contractor begins the Work.

101.62 PROFILE GRADE. The trace of a vertical plane intersecting the top surface of the proposed roadway, usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of such trace according to the context provided.

101.63 PROJECT. The specific section of the highway or property on which construction is to be performed together with all improvements to be constructed under the Contract.

101.64 PUNCH LIST. An itemized list of non-conforming Work to be repaired or corrected, and the outstanding submission(s) of all executed documents, certificates, or proofs of compliance, all as required by the Contract.

101.65 REPETITION OF EXPRESSIONS. In order to avoid cumbersome and confusing repetition of expressions in these Specifications, it is provided that whenever anything is, or is to be, done, if, as, or, when, or where "contemplated, required, determined, directed, specified, authorized, ordered, given, designated, indicated, considered, necessary, deemed necessary, permitted, reserved, suspended, established, approval, approved, disapproved, acceptable, unacceptable, suitable, accepted, satisfactory, unsatisfactory, sufficient, insufficient, rejected or condemned," it shall be understood as if the expression were followed by the words "by the Engineer" or "to the Engineer."

101.66 REPORT OF CHANGE (ROC). Documentation describing the need for a change to the Contract. The terms "Report of Change" and "Change Order" are used synonymously.

101.67 REQUEST FOR COMPENSATION. Written notice by the Contractor of the Department's action, lack of action, or other situation which may result in a Contract revision.

101.68 RESPONSIBLE BIDDER. A Bidder that the State determines possesses the skill, ability, resources, and integrity to perform the Contract.

101.69 RESPONSIVE BID. A bid conforming in all respects to the terms and conditions of the Advertisement.

101.70 RIGHT-OF-WAY. A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

101.71 ROADBED. The shaped subgrade of a Highway within top and side slopes, prepared as a foundation for the pavement structure.

101.72 ROADSIDE. A general term denoting the areas between the outer edge of the roadway and the Right-Of-Way boundaries and may also include the areas between the roadways of a divided highway.

101.73 ROADSIDE DEVELOPMENT. Those items necessary for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the highway.

101.74 ROADWAY. That portion of a highway improved, designed, or ordinarily used for vehicular travel and parking lanes, but exclusive of the sidewalk, berm, or unpaved shoulder even though such sidewalk, berm, or unpaved shoulder may be used by persons riding bicycles or other human-powered vehicles.

101.75 SHOULDER. The portion of the Roadway adjacent to the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and

surface courses. Shoulders may be paved or unpaved. If paved, it becomes a portion of the Pavement Structure and Roadway.

101.76 SIDEWALK. That portion of the Right-of-Way constructed for pedestrian use.

101.77 SPECIALTY ITEMS. The work required to implement specialty items is considered to be a type that a Contractor would not generally perform with its own resources. Those specific Work items listed in either the Bid Schedule or elsewhere in the Contract whose Item Numbers are designated by the prefix "S".

101.78 SPECIFICATIONS. The compilation of provisions consisting of the following:

- a. **Standard Specifications.** A publication of specifications approved for general application and repetitive use. Specifically, the "Rhode Island Department of Transportation Standard Specifications for Road and Bridge Construction" of latest revision;
- b. **Supplemental Specifications.** Approved additions and revisions to the Standard Specifications, including General Provisions and Compilations of Approved Specifications;
- c. **Special Provisions.** Additions and revisions to the Standard and Supplemental Specifications applicable for an individual project, including General Provisions – Contract Specific, Specifications – Job Specific, and Appendices;
- d. **Plans;**
- e. **Required provisions for Federal-Aid projects.** when applicable; and
- f. **Federal Wage Rates.** when applicable. A schedule of prevailing rates of wages of labor for the geographical area in which the work of the Contract is to be performed, compiled by, and issued from time to time by the Secretary of the United States Department of Labor.

101.79 SOIL STABILIZATION. Modification of soils or aggregates by incorporating materials and/or implementing engineered process(es) that will improve or develop its suitability for the Work.

101.80 STATE. The State of Rhode Island acting through its authorized representatives.

101.81 STRUCTURES. Bridges (foundations, substructures, superstructure, endwalls), conduits, culverts, catch basins, drop inlets, retaining walls, cribbing/bridge-shoring, manholes, light-poles and support members, sign-poles and support members, buildings, foundations, sewers, service pipes, underdrains, storm-drains, foundation drains and other human-made features which may be encountered or incorporated in the work.

101.82 SUBCONTRACTOR. The individual, partnership, firm, corporation, joint venture, or legal entity, with whom the Contractor sublets part of the Work.

101.83 SUBSTANTIAL COMPLETION. Substantial completion of a unit, or portion of the work such as a structure, an interchange, or section of road or pavement occurs at the point at which the portion of the work is complete such that it can be safely and effectively used by the public and when the following criteria are realized:

- a. All courses of pavement are complete;
- b. Curbing and sidewalks are placed;
- c. All project drainage is complete;
- d. Guardrail and terminal sections are properly installed;
- e. Pavement markings are in place;
- f. Traffic signal systems meet the following requirements:
 - 1. isolated traffic signals - the signal control equipment is fully programmed, detectors are installed and functioning, and the signal is in actuated operation;
 - 2. coordinated traffic signal systems - the requirements of condition (1) are met, the interconnect is installed and functioning, and the signals are operating as a coordinated system;
 - 3. closed loop signal systems - the conditions of (1) and (2) are met, the communications link is operating, and the monitoring functions, including system and intersection graphics, are installed and operating at the Department's monitoring stations;
- g. regulatory and warning signs are installed;
- h. highway lighting is operational; and
- i. only corrective or repair work remains for the physical completion of the Contract.

101.84 SUBSTRUCTURE. The bridge structure below the bearings of simple and continuous spans, skewbacks of arches, and construction joints at the top of vertical abutment members or rigid frames, and including backwalls, wingwalls and protection railings, and piers.

101.85 SUPERINTENDENT. The Contractor's on-site authorized representative responsible for the supervision of all Work related to the Project.

101.86 SUPERSTRUCTURE. The entire Structure above that portion called the Substructure.

101.87 SURETY. The legal entity, other than the Contractor, executing a bond or bonds furnished by the Contractor.

101.88 TITLES (OR HEADINGS). The titles or headings of the sections and subsections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

101.89 TMP IMPLEMENTATION MANAGERS. The State and Contractor authorized representatives with the primary responsibility and authority for implementation of the Transportation Management Plan. The State and the Contractor must each designate on the Transportation Management Plan their respective TMP Implementation Manager for the Project.

101.90 TRANSPORTATION MANAGEMENT PLAN (TMP). The document that lays out the set of coordinated transportation management strategies that will be used to manage the work zone safety and mobility impacts of the Project.

101.91 TRAFFIC. The passage of vehicles or pedestrians of the traveling public along an established route or pathway. When expressed specifically as "pedestrian traffic", "vehicular traffic" or "other-type traffic," then that traffic shall be so defined, respectively.

101.92 TRAVELED WAY. The portion of the Roadway provided for the movement of vehicles, exclusive of shoulders.

101.93 UNBALANCED BID. A Bid containing one or more Contract Items that the State determines do not reasonably reflect the Bidder's cost to complete the Contract. The two types of Unbalanced Bids are:

- a. **Mathematically Unbalanced.** Where the Bidder's Contract items do not reasonably reflect the Cost of performing the Contract; and
- b. **Materially Unbalanced.** A Mathematically Unbalanced Bid that generates reasonable doubt that Award will result in the lowest Contract Price.

101.94 WINTER SHUTDOWN. The period from December 15th through the following April 15th. The Contract Time has been developed on the assumption that work will be suspended during Winter Shutdown.

101.95 WORK. The furnishing of all labor, materials, equipment, and incidentals necessary for the completion of the Project and the carrying out of all duties and obligations imposed in accordance with the Contract.

101.96 WORK DAY. A calendar day during which normal construction operations could proceed for a major part of a shift, normally excluding Saturdays, Sundays, and holidays. The terms "Work Day", "work day", "Working Day", and "working day" are used synonymously.

SECTION 102

BIDDING REQUIREMENTS AND CONDITIONS

102.01 PREQUALIFICATION OF BIDDERS. Contractors who bid on Department of Transportation projects shall provide the Department with the following information in accordance with R. I. Gen. Laws § 37-2-26:

- a. Equipment.** Annually provide an up-to-date inventory of all operational motor vehicles and power equipment owned or leased by the contractor for use on RIDOT projects. For leased equipment, provide a copy of the lease agreement containing the name and address of the lessor and the amount of the monthly/annual rental payment thereof.
- b. Personnel.** For each contract, the apparent low bidder shall provide the full name and address of any superintendents, project managers, engineers or other supervisory personnel assigned to RIDOT projects. For each individual, include the following: A detailed statement of qualifications and or current resume for each superintendent, project manager, engineer, or other supervisory personnel to be assigned to RIDOT projects; and, disclosure of any suspension or debarment action taken against any principal, officer, director, superintendent, project manager or other supervisory personnel by any federal, state, or municipal agency within the preceding five (5) years.
- c. Financial.** On an annual basis, the Contractor shall provide financial references and an original copy of its current financial statement.
- d. Disadvantaged Enterprise Agreements.** For each Contract, the apparent low bidder shall:
 1. Provide copies of executed agreements with any proposed disadvantaged business enterprise ("DBE") subcontractor(s) who will provide services or materials on a RIDOT project; and
 2. Provide documentation that the proposed DBE subcontractor(s) has received subcontractor approval from the RIDOT minority business office; and
 3. Disclose any suspension or debarment action taken against any principal, officer, director, and superintendent, of the proposed DBE subcontractor by any federal, state, or municipal agency within the preceding five (5) years; and
 4. Provide a summary of the type of work that the DBE is authorized to perform.
- e. Trainees.** On an annual basis, the Contractor shall:
 1. Provide a written statement to RIDOT's equal employment opportunity office setting forth the number of employees who shall be trained in each job classification and job training program as required by contract provisions for federal aid projects; and
 2. Provide a written certification that the contractor and all subcontractors shall comply with all statutory apprenticeship and prevailing wage requirements.
- f. Equal Employment Opportunity.** On an annual basis, provide the full name of the person who shall serve as the contractor's equal employment opportunity officer (EEOO), together with a statement as to the EEOO's qualifications.

g. Non-Discrimination. On an annual basis, provide a written statement (4 copies) on the contractor's letterhead certifying that the contractor does not and shall not discriminate in affording equal employment opportunity to all job applicants and employees.

h. Subcontractors. For each contract, the apparent low bidder shall provide a written statement containing the full name and business address of all proposed subcontractors with a summary of the type and extent of work, services and/or material that the subcontractors shall provide on RIDOT projects. For each subcontractor listed state:

1. Whether the proposed subcontractors have performed or provided similar work services or materials on other Rhode Island public works projects and, if so, provide a list thereof; and,
2. All suspension or debarment action taken against all proposed subcontractor, and its principals, superintendents, project managers, and other supervisory personnel by all federal, state, or municipal agency within the preceding five (5) years.

i. Bonds and Insurance.

1. For each contract, the apparent low bidder shall provide a written statement from a State licensed and authorized bonding company listed in the United States Department of the Treasury, Fiscal Services, Circular 570 (or latest revision of Federal Register), that it shall issue the required bond(s) for RIDOT projects and all limitations thereon;
2. Provide a written statement from insurance companies authorized to transact business in the State of Rhode Island indicating a willingness to issue the required commercial general liability, business, automobile, workers compensation, environmental, contractor's equipment floaters, and other types of insurance coverage in such amounts as necessary for RIDOT projects.

j. Joint Ventures. In addition to compliance with **Subsection 102.01** paras. (a) – (i) above, a bidder who is a joint venture must submit:

1. A copy of the joint venture agreement with the Proposal that clearly identifies the entities or former entities comprising the joint venture and the officers of the joint venture; and
2. Proposals as a joint venture. The Joint Venture must be independently registered as a user of the Department's bid preparation software and with the Division of Purchases Rhode Island Vendor Information Program (RIVIP); and
3. Financial Statements for each entity in accordance with **Subsection 102.01(c)** in the event that a newly formed joint venture has no previous record of finances.

102.02 CONTENTS OF PROPOSAL FORMS. The Department's bid preparation software generates the Proposal Form, which is furnished to the prospective Bidder on a disc (CD or DVD) or other media as part of the Contract Bid Package with the Plans, Specifications and additional contract bid documents.

a. The Proposal. The Proposal consists of three parts:

1. The Notice to Contractors and the Bidder Certifications required of the prospective Bidder as conditions to its offer to perform the Contract Work.
2. The "Proposal Pages," or "Bid Schedule," where the various items of Work are listed in a numbered sequence, and where the unit prices entered by the Bidder and the total bid amounts of each item are recorded and tabulated.
3. The "Signature Page," which includes the "Total" or "Gross Sum of Bid" and which is signed by the Bidder or his authorized signatory. This signature signifies the Bidder's acceptance of all requirements and conditions of the Contract and its agreement to complete the Work by the specified Contract Time(s).

102.03 INTERPRETATION OF ITEM QUANTITIES IN THE PROPOSAL. The quantities appearing in the Bid Schedule are estimates used by the State for the comparison of bids. The State pays the Contractor only for the actual measured quantities of Work performed and accepted or materials furnished and accepted in accordance with the Contract. The estimated quantities of Work to be performed and the materials to be furnished may be increased, decreased, or eliminated as deemed necessary by the Engineer and/or in accordance with **Subsections 104.02 and 109.03.**

102.04 EXAMINATION OF PLANS, SPECIFICATIONS, SPECIAL PROVISIONS, AND SITE OF WORK. Bidders shall examine the site of the proposed Work, the Contract Bid Package, and the State Procurement Regulations before submitting a Proposal.

- a. The Bidder is responsible for all site conditions that should have been discovered had a reasonable site investigation been performed. The State considers the submission of a Proposal to be conclusive evidence that the Bidder is satisfied with the conditions it expects to encounter in performing the requirements of the proposed Contract.
 1. Whenever boring logs or other records of subsurface investigations are included in the Contract Documents and/or are available for inspection by Bidders, it is understood that such information is not intended as a substitute for the personal investigation, interpretation, and judgment of the Bidders. This information is available to the Bidders such that all have access to identical subsurface information available to the Department. Boring logs and other records of subsurface investigations apply only to the locations of the samples at the time so indicated in the record(s). Since material quantities naturally vary within its source, the Bidder and/or Contractor should anticipate variances in proportions and quantities. The Department makes no warranty or guarantee, either express or implied that the conditions indicated in the subsurface information it provided are representative of those conditions existing throughout such areas, or any part thereof. The Bidder and/or Contractor is required to rely upon its own interpretation of the information as to determining the quantities of each such materials that may be encountered.
 2. The locations of all utilities depicted on the Plans are approximate. The Contractor is responsible for determining the exact location of all existing utilities, both underground and overhead by notifying Dig Safe in accordance with State law. The Contractor is responsible for damage to utilities that are shown on the Plans or located in accordance with Dig Safe. The Department may pay for damage to utilities and their associated service connections that are not shown on the Plans or located by the respective utilities in accordance with Dig Safe.

102.05 PREPARATION OF PROPOSAL. Proposals shall conform to the following requirements:

- a. Except when otherwise directed, all Proposals shall be generated by the Department of Transportation's bid preparation software, and the Proposal must be submitted to the Department of Administration, Division of Purchases in the form of an electronic file on a compact disc (CD) or other media, which shall be labeled and identified, at a minimum, with the Bidder's name and the appropriate Rhode Island construction contract number. In addition, the Bidder shall submit a hard copy of its Proposal on forms generated by the Department of Transportation's bid preparation software.
- b. The Proposal shall specify a unit price in words and numerals for each pay item for which a quantity is provided. All pay items for which a Bidder is required to specify a unit price shall have a bid price of at least one cent. The bid preparation software requires a unit price for each pay item and does not allow a unit price of less than one cent as a bid price for a pay item. In certain cases, the program will require a minimum or only-acceptable bid price. The Proposal shall show the products of the respective unit prices and quantities written in figures in the column provided for that purpose and the total amount of the Proposal obtained by adding the amounts of all items. The unit prices written in words, correctly extended and added, comprises the total bid price. If a discrepancy exists between the unit prices written in words and the numerals, the unit prices written in words shall govern. The State reserves other rights as noted in **Subsection 103.01**.
- c. When the Proposal contains a choice to be made by the Bidder, the Bidder shall indicate its choice in accordance with the instructions or specifications for that particular item. Erasures and written alterations to the Proposal are not permitted.
- d. The Bidder must sign in ink its hard copy Proposal generated from the bid preparation software by the individual, an authorized signatory of the partnership, firm, corporation, Joint Venture, or other legal entity, or by such other agent of the Contractor legally qualified and acceptable to the State as hereinafter provided.
 1. If the Proposal is made by an individual, his/her name and mailing address shall be shown;
 2. If by a partnership, the name and mailing address of each partnership member shall be shown;
 3. If as a joint venture, the name and mailing address of each member or officer of the firms represented by the Joint Venture shall be shown;
 4. If as a corporation, the name of the corporation and the business address of its corporate office shall be shown; and
 5. In the case of Partnership and/or Joint Venture, the names and addresses of each member or officer of the partnership or Joint Venture must be listed in a separate attachment to be included with the submitted Proposal. Further, a copy of the Joint Venture agreement must be included with the Proposal when submitted. The Joint Venture agreement must clearly identify the entities or former entities that comprise the Joint Venture and the officers of the Joint Venture.

102.06 PROPOSAL GUARANTY. A Proposal will not be accepted or considered unless accompanied by a guaranty in the form of an original Bid Bond made payable to the State of Rhode Island. Surety companies licensed and authorized to conduct business in the State of Rhode Island must provide bid bonds. All surety companies must be listed with the Department

of the Treasury, Fiscal Services, Circular 570, (Latest Revision published by the Federal Register). The amount of the Proposal Guaranty shall be as designated in the Notice to Contractors. When the Bidder is a Joint Venture, the Proposal Guaranty shall be in the name of the Joint Venture. Execution of the Bid Bonds is not complete unless accompanied by a certified copy of the power of attorney for the surety's attorney-in-fact.

102.07 NON-RESPONSIVE PROPOSALS.

a. Mandatory Disqualification. The State will declare a Proposal non-responsive and reject it for any of the following irregularities:

1. More than one Proposal for the same Work is submitted from an individual, partnership, firm, corporation, Joint Venture, or other legal entity under the same or different name;
2. The Proposal is not submitted in a sealed envelope and clearly labeled as to its contents;
3. The Proposal form is obtained from any party other than the Department;
4. The Bidder is not a registered user of the Department's bid preparation software;
5. The Proposal form is altered or any part thereof is detached or incomplete;
6. The Proposal form is not signed;
7. There are unauthorized additions, unauthorized conditional or alternate bids, or irregularities of any kind which may tend to make the Proposal incomplete, indefinite, or ambiguous as to its meaning;
8. The Bidder adds any provisions reserving the right to accept or reject an award;
9. The Proposal is not completed using the Department's bid preparation software;
10. The Department determines that the low bid is materially unbalanced;
11. The Proposal is received after the time designated for the opening of bids in the "Notice to Contractors";
12. The Bidder fails to execute the required certifications enumerated in the Proposal Report labeled "DOCUMENT(S)" located at the end of the Proposal;
13. The Bidder fails to submit an original Bid Bond, of the character and amount indicated in the Proposal;
14. The Bidder's electronic files and the hard copy submission do not match, unless such a discrepancy is determined to be the result of an error or malfunction within the Department's bid preparation software;
15. The electronic files are not submitted in accordance with the requirements of **Subsection 102.05.**

b. Other Reasons for Disqualification. The State reserves the right to declare a Proposal non-responsive and may reject it for any of the following irregularities:

1. The Bidder fails to include at least a minimum amount where required for a particular item;
2. The Proposal does not contain a "total or gross sum of bid," written in words and numerals, in the space provided;
3. The Authorized Signatory designated on the Quest Lite Proposal form does not sign the Proposal;
4. The Bidder fails to comply in every detail with the instructions provided in **Subsection 102.05;**

5. The electronic files containing the Bidder's Proposal are unreadable by the State's bid preparation software, or if the disc contains multiple or incorrectly formatted files, or is blank;
6. The Proposal is mathematically unbalanced;
7. The Bidder fails to comply with any other requirement set forth in the Notice to Contractors.

102.08 DELIVERY OF PROPOSALS. The Bidder shall submit its Proposal in a sealed envelope, clearly labeled to indicate its contents. When sent by mail, the Bidder shall address its Proposal in accordance with the instructions contained in the Notice to Contractors.

102.09 WITHDRAWAL OR REVISION OF PROPOSALS. A Bidder may withdraw or revise a Proposal after its submission only to the extent permitted by the Division of Purchases. If a Bidder withdraws its Proposal in accordance with this provision, the State shall return the Proposal Guaranty to the Bidder.

The State reserves the right to revise the Plans, Specifications, other contract documents, the Proposal, and bid opening date for any project at any time prior to the time set for opening of Proposals. The State makes such revisions by addendum, duly numbered and dated, and accessible to bidders through the State website known as the R. I. Vendor Information Program (RIVIP).

102.10 COMBINATION OR CONDITIONAL PROPOSALS. The State may issue Requests for Proposals for projects in combination or separately, so that Bidders may submit Proposals on the combination or on separate units of the combination. The State reserves the right to make awards on combination bids or separate bids in such manner deemed most advantageous to the State. The State will consider only specified Proposal combinations and may issue separate contracts for each Project included in the combination. The State will consider Conditional Proposals only when specified in the Special Provisions.

102.11 PUBLIC OPENING OF PROPOSALS. Proposals will be opened and read publicly at the time and place indicated in the Notice to Contractors or as amended by duly authorized Contract Addenda. Bidders, their authorized agents, and other interested parties may be present at the opening of Proposals.

102.12 DISQUALIFICATION OF BIDDERS.

- a. **Mandatory Disqualification.** The State will disqualify a Bidder as not responsible and reject its Proposal as non-responsive at any time upon any of the following occurrences:
 1. Indication of collusion among Bidders;
 2. Making false statements on prequalification documents and/or any other required Bidder's certifications;
 3. Failure to comply with any requirements as set forth in **Subsection 102.01**;
 4. Debarment or suspension by Federal or State authorities; or
 5. Failure to provide a properly executed Contract Bond.

b. Other Reasons for Disqualification. The State reserves the right to disqualify a Bidder as not responsible and reject its Proposal as non-responsive upon occurrence of any of the following:

1. Lack of competency, adequate workers, equipment, or demonstrated ability to meet Contract requirements;
2. Incomplete work under current Contracts, which in the judgment of the Department may adversely affect the timely completion of additional work, if awarded;
3. Failure to comply with a written order of the Engineer as provided in **Subsection 105.01**, under current and/or prior contracts;
4. Attempts, whether successful or not, to influence Department policy through gratuities, gifts, or offers of employment;
5. Failure to pay, satisfactorily settle, or provide good cause justification, for all bills, claims, debts or judgments pertaining to the Contractor's labor and material on existing contracts, provided that the State has paid the Contractor for the amounts expended on the labor and material being considered on a particular contract and particular contract pay item, except for any amounts in dispute between the Department and the Contractor;
6. Failure to pay or satisfactorily settle Subcontractor Payments as provided for under **Subsection 109.09**;
7. Failure to comply with any post qualification regulations or requirements of the State;
8. Default under previous State contracts;
9. Refusal to remove and replace rejected materials or nonconforming Work;
10. Failure to execute a previous Contract after receipt of the Notice of Tentative Award;
11. Any other reason deemed appropriate or necessary by the State, which is in the public's best interest.

102.13 MATERIAL GUARANTY. The successful Bidder may be required to furnish a complete statement of the origin, composition, and manufacture of any or all materials it uses in the construction of the Project, together with samples tested for conformance with Contract provisions.

For Federal-aid projects, the Bidder is advised of the "Buy America" (23 CFR 635.410), requirements for domestic steel and iron products as set forth in **Subsection 106.01**.

102.14 BIDDING CERTIFICATIONS.

a. Anti-Collusion Certification. Every Proposal submitted to the Department shall contain an Anti-Collusion Certificate for Contract and Force Account, duly subscribed to and affirmed by the Bidder as true under the penalties of law.

1. By submission of a Proposal, each Bidder and each person signing the Proposal, which includes the Anti-Collusion Certificate on behalf of the Bidder, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief.
2. It arrives at its prices in its Proposal independently without collusion, consultation, communication, or agreement with any other Bidder, or with any competitor, for restricting competition.

3. The prices in its Proposal have not been nor will the Bidder knowingly disclose them, directly or indirectly, to any other Bidder or competitor prior to the opening of Proposals unless required by law.
4. The fact that a Bidder (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has sold the same items to other customers at the same prices being bid, does not constitute a disclosure within the meaning of **Subsection 102.14 (a) (3)**.
5. The Bidder has not induced, nor will it attempt to induce, any other person, partnership, or corporation to bid or not to bid for the purpose of restricting or manipulating the competitive bid process.
6. Non-Compliance: The bid preparation software will not enable a prospective Bidder to complete the preparation of a Proposal unless the Bidder certifies that it complied with this Section.
7. Submission of the Proposal to the State is affirmative evidence that the Bidder's board of directors or other applicable entity authorized the signing and submission of the Proposal and all corresponding certificates, including the certificate of non-collusion by the corporation.

b. Certification regarding Debarment, Suspension and Other Responsibility Matters.

Every Proposal submitted to the Department shall contain the Certification regarding Debarment, Suspension and Other Responsibility Matters, duly subscribed to and affirmed by the Bidder as true under penalty of law. Through its submission of the Certificate, the Bidder certifies, under penalty of law, that it:

1. Is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency;
2. Has not been convicted of or had a civil judgment rendered against it for fraudulent or criminal acts in connection with a public contract or transaction within the last three (3) years;
3. Is not presently indicted or otherwise criminally charged for fraudulent or criminal acts in connection with a public contract or transaction; and
4. Has not had one or more public contracts or transactions terminated for cause or default within the last three (3) years.
5. Non-compliance: In the event a Bidder is unable to certify to any of the conditions above, the Bidder must attach the reasons for its inability to certify to the hard copy, which the State will consider for mandatory or non-mandatory disqualification and Contractor responsibility. The bid preparation software will generate a statement on the signature page of the Proposal that additional documentation is attached in support of the Bidder's inability to fully certify to the provisions.

c. Disadvantaged Business Enterprise Affirmative Action Certificate. For all contracts containing provisions for the participation of Disadvantaged Business Enterprises (DBEs), Bidders shall be required to complete a Certification affirming compliance with the U.S. Department of Transportation and applicable State of Rhode Island regulations regarding participation by Disadvantaged Business Enterprises in the Work as contractors, subcontractors and/or suppliers of materials and services. The Certification requires the Bidder to affirmatively seek out and consider qualified Disadvantaged

Business Enterprises to participate in the Contract, and to submit a Disadvantaged Business Enterprise Program within ten days from the receipt of bids.

1. Non-Compliance: The bid preparation software will not enable a prospective Bidder to complete the preparation of a Proposal unless the Bidder completes the DBE Certification form in the Proposal.

d. Disclosure of Lobbying Activities. Every Bidder shall certify and disclose, through the submission of a Proposal, any lobbying of Federal agencies, employees, officers, Members of Congress, or officers or employees of Congress or Members of Congress in connection with a covered Federal action. Each Bidder and person signing a Proposal must certify that:

1. No Federal appropriated funds were paid or will be paid, by or on behalf of the Bidder, to any individual or entity for the purpose of influencing or attempting to influence any Federal agency, employee or officer thereof in connection with the awarding of any Federal contract, the making of a Federal grant or loan, or any other form of a contractual nature; or
2. Although it has not used Federal appropriated funds, it engages in lobbying activities and submits a complete Standard Form LLL "Disclosure Form to Report Lobbying" with its Proposal.
3. The Bidder also acknowledges by submitting a bid Proposal that the requirements of this certification shall also apply to all lower tier subcontracts which exceed \$100,000, and that all subcontractors shall certify and disclose accordingly.
4. Non-Compliance: The bid preparation software will not enable a prospective Bidder to complete the preparation of a bid Proposal unless the Bidder certifies that he has met the requirements of Paragraph 6 above. In order to complete a bid Proposal, the Bidder must certify that it did not use Federal appropriated funds for lobbying purposes or in the event it engaged in lobbying activities, it discloses this activity on Standard Form LLL, which is included in the bid preparation software.

e. Title VI Assurance. For all contracts subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d – 2000d4 (the Act) and 49 C.F.R. Part 21, Nondiscrimination in Federally- Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (the Regulations), Bidders shall be required to complete a Certification affirming compliance with the Act and the Regulations. By submission of a Proposal, each Bidder and each person signing a Proposal certifies that the Bidder affirmatively agrees as follows:

1. Compliance with Regulations: The Bidder shall comply with the regulations relative to nondiscrimination in federal-aid programs of the Department and 49 C.F.R. Part 21, as amended from time to time.
2. Nondiscrimination: The Bidder shall not discriminate on the grounds of race, color, sex, national origin, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Bidder shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Bidder for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Bidder of its obligations relative to nondiscrimination on the grounds of race, color, sex, national origin, age, or disability.
4. Information and Reports: The Bidder shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as the Department determines to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Bidder is in the exclusive possession of another who fails or refuses to furnish this information, the Bidder shall so certify to the Department, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Bidder's noncompliance with the nondiscrimination provisions, the Department may impose such contract sanctions as it determines to be appropriate, including, but not limited to:
 - (a) Withholding of payments under the Contract until the Bidder complies; and/or Deductions of monies from payments otherwise owed in an amount equal to the value of the affected Work; and/or
 - (b) Cancellation, termination or suspension of the Contract, in whole or in part.
6. Incorporation of Provisions: The Bidder shall include the provisions of Paragraph 7 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Bidder shall take such action with respect to any subcontract or procurement as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the Bidder becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Bidder may request the Department to enter into such litigation to protect the interests of the Department.

7. Non-Compliance. The bid preparation software will not enable a prospective Bidder to complete the preparation of a Proposal unless the Bidder completes the Title VI Certification form in the Proposal.

SECTION 103

AWARD AND EXECUTION OF THE CONTRACT

103.01 CONSIDERATION OF PROPOSALS. After the State opens the Proposals, the Contract Prices are read and made public. Thereafter, the State compares the Proposals on the basis of Contract Item quantities and unit prices. The State may investigate apparent discrepancies or errors in the Proposals. In the event of discrepancies between unit prices and the computed extensions, the unit price shall govern. The State reserves the right to reject any or all Proposals, to waive technicalities, or to advertise for new Proposals, if the best interests of the State are served.

103.02 POST-QUALIFICATION REQUIREMENTS AND AWARD OF CONTRACT. The apparent low Bidder shall submit all post qualification requirements in accordance with the State's instructions contained in its post qualification letter.

- a. Financial Statements.** Unless an annual, audited financial statement or financial review statement is on file with the Department for the current year in accordance with **Subsection 102.01(c)**, the successful Bidder is required to submit a complete set of audited financial statements certified by a CPA for contracts exceeding \$5,000,000. For contracts valued at \$5,000,000 and under, the successful Bidder is required to submit a financial review statement. For contracts under \$1,000,000, a financial compilation statement is required.
- b. Award of Contract.** The State shall award the Contract within the time specified in the Notice to the responsive and responsible Bidder whose Bid is either the lowest Bid price or in the case of alternative contracting methods, the best value. This time period may be extended by mutual agreement of the parties.

 1. The successful Bidder will first receive a Notice of Tentative Award. This written communication indicates the conditional intent of the State to award the Contract and instructs the successful Bidder to arrange for the execution of the Contract Agreement and Contract Bond and for the delivery of the Certificates of Insurance.
 2. No Proposal shall bind the State, nor shall any Work begin within the project limits prior to Contract Award.
 3. The Contractor shall bear all risks for any Work begun outside such areas and for any materials ordered before the State awards the Contract.
 4. On Contracts jointly bid, Contractors are held jointly and severally liable for the entire Contract.
 5. Corporate Bidders must furnish documentary evidence that they have met all legal requirements to transact business in the State of Rhode Island as a condition precedent to Award of the Contract.

103.03 CANCELLATION OF CONTRACT. The State reserves the right to cancel the Contract before the Award without liability.

103.04 RETURN OF PROPOSAL GUARANTY. The State will return Proposal Guaranties to all Bidders after its award of the Contract, or after the cancellation of the Contract is announced.

103.05 CONTRACT BOND. At the time of the execution of the Contract, the successful Bidder shall furnish a Contract Bond in a sum equal to the full Contract Price. The Contract Bond shall guarantee the following: complete performance of the Contract and all Contract Addenda; full payment for all materials and equipment; and full payment of all wages of labor.

The form of the Contract Bond shall be acceptable to the State. In the event the Surety fails or becomes financially insolvent, the Contractor shall file a new Bond in the amount designated by the Department within fourteen (14) Calendar Days of such failure or insolvency. Failure to furnish a replacement Bond may result in the State's withholding of any amounts due the Contractor.

The Contract Bond shall be provided by a Surety licensed and authorized to conduct business in the State of Rhode Island. All Surety companies must be listed on the most current Department of the Treasury, Fiscal Services, Circular 570. Subsequent to award of the Contract, the State may require an increase in the Bond.

103.06 EXECUTION OF THE CONTRACT. The successful Bidder shall execute the Contract in accordance with the instructions contained in the Notice of Tentative Award. No Contract, express or implied, shall be binding on the State until execution of the Contract.

103.07 FAILURE TO EXECUTE CONTRACT. Failure of the successful Bidder to comply with the terms of the Notice of Tentative Award may result in a revocation of the Notice and forfeiture of the Bid Bond. Subsequently, the State may elect to award the Contract to the next lowest responsible and responsive Bidder or reject all Bids and re-advertise the Project.

- a. Failure of the State to Execute Contract.** If the State does not execute the Contract within sixty (60) days of Bid opening, or as agreed upon by the parties, then the Contractor may withdraw its Proposal without penalty by submitting a notice of such intent with the State. Upon submission of such notice, the Contractor releases the State from any and all liability or obligation on its behalf and any other party who may have an interest, either direct or indirect, in the award of the Contract.

103.08 ESCROW OF BID DOCUMENTATION. The placing in escrow of Bid Documentation in accordance with this Section is applicable only when specified in the Contract.

- a.** The purpose of this Specification is to preserve the Bid documents of the Contractor for use by the parties to resolve any disagreement, dispute or claim between the State and Contractor.
- b.** The Bidder shall submit a legible copy of all Bid Documentation used to prepare the Bid for this Contract with its Proposal or as otherwise specified, in a separate sealed container clearly marked "Bid Documentation" and shall be labeled with the Contractor's name and address, the date of submittal, the Project Number, the Contract Number, and Project Name.
- c.** Escrowed Bid Documents are the property of the Contractor and are not public records. If a third party requests a copy of the escrowed bid documents at any time, the Contractor, and not the Department, must take the legal steps needed to defend the confidentiality of the escrowed Bid Documents.
- d.** Affidavit. The Contractor shall submit an affidavit, signed under oath by an authorized representative with its Bid Documentation, listing each Bid document submitted by author,

date, nature, and subject matter. The affidavit shall attest that the affiant has personally examined the Bid Documentation, that the affidavit certifies that the material submitted for escrow constitutes all the documentary information used in preparation of the bid and that all such Bid Documentation is included in its submission to the State.

- e. Duration and Use. If awarded the Contract, the Bid Documentation shall be escrowed with a mutually agreeable document storage facility and preserved by that institution/facility as specified in the following Sections of this clause.
- f. The State shall return the sealed containers containing the Bid Documents with the return of Proposals to the unsuccessful Bidders upon Award of the Contract.
- g. The Bid Documents shall be escrowed for the duration of the Contract and shall be released to the State upon receipt of written authorization by the Contractor, or notification of the Contractor's intention to file a claim or its initiation of litigation against the State. In the absence of such actions, the Bid Documentation shall be released to the Contractor upon Acceptance and Final Payment.
- h. In accordance with its certification that the sealed container placed in escrow contains all of the materials relied upon by the Contractor in preparing its Bid, the escrowed Bid Documentation will be the only documents accepted from the Contractor regarding preparation of the Bid.
- i. Failure to Provide Bid Documentation. Failure to provide Bid Documentation in accordance with the requirements of this Section may render the Bid non-responsive under **Subsection 102.07**.
- j. Escrow Costs. The cost of the escrow storage will be borne by the State. The State will provide escrow instructions to the document depository consistent with this clause.

SECTION 104

SCOPE OF WORK

104.01 INTENT OF CONTRACT. The intent of the Contract is to provide for the construction and completion of the Work. The Contractor shall furnish all labor, material, equipment, transportation, supplies, services, incidentals, and other resources required to complete the Work. Omissions from the Contract of details of Work that are necessary to carry out the intent of the Contract shall not relieve the Contractor from performing the omitted Work.

104.02 CONTRACT REVISIONS.

- a. General.** The Engineer reserves the right to revise the Contract at any time. Such revisions do not invalidate the Contract nor release the Surety and the Contractor shall perform the Work as amended or as directed by the Engineer. The State shall pay for the revised work at the contract unit bid prices unless the cost of production or character of the work is materially changed, in which case the Contractor shall be paid in accordance with **Subsection 109.04**. Lost or anticipated lost profits resulting from a contract revision are not compensable. Revisions that result in requests for time extensions shall be determined in accordance with **Subsection 108.07**. When changes are time sensitive, the Engineer may issue written orders to proceed with the Work and such written orders shall be implemented as if a change.
- b. Causes for Change.** The following issues may result in a Contract change:
1. Differing Site Conditions;
 2. Alterations in the Plans or Detail;
 3. Extra Work for which there is no item of work in the Proposal;
 4. Suspension of the Work for any reason; and
 5. Significant changes in the Character of the Work.
- c. Change Request.** The State will only consider requests for contract revisions when the Contractor meets the notification procedures in **Subsection 104.02(d)**. If the Engineer determines that a contract revision requested by the Contractor is not necessary, the Contractor shall proceed with the work as directed by the Engineer and may seek redress under **Subsection 105.18**.
- d. Contractor Notification Requirements.** The Engineer will consider requests for Contract changes only when the Contractor follows the notification procedures in this subsection.
1. **Initial Written Notice of Change by Contractor.** If the contractor believes that the Department's action, or lack thereof, or some other situation results in or necessitates a Contract revision, the Contractor shall provide written notification to the Engineer within two (2) Working Days from discovery of the condition that may warrant a change to the Contract. The Notice shall contain the time and date that the issue was discovered, the nature of the issue and its location.
 2. **Additional Contractor Submission.** If the Engineer and Contractor are unable to resolve the issue after 2 Working Days from the initial notification, the Engineer

will provide a written denial of the request for Contract revisions, at which time the Contractor shall augment the original written notice with the following information for submission to the Engineer within 5 Working Days of the receipt of the Engineer's written denial:

- (a) A clear explanation of why the situation represents a change to the Contract, including accurate reference to the pertinent portions of the Contract;
- (b) All potential adjustments to pay items that have been or may be affected by the change, condition, or event;
- (c) Labor or materials that will be added, deleted, or wasted by the change, condition, or event; and
- (d) Existing or anticipated delays and disruptions in contract performance, schedule, or sequences.

The Engineer and Contractor shall maintain records of labor, equipment, and materials used or made necessary by the circumstances. Such record keeping shall start upon receipt of initial written notice by the Engineer.

3. **Written Response by Engineer.** Within 10 Working Days of receiving the Contractor's augmented submission under **Subsection 104.02(d)(2)**, unless the Contractor agrees to a longer time, the Engineer will provide a written response that includes one of the following:

- (a) Confirmation of the need for a revision to the Contract. A time extension, if one is necessary, will be determined in accordance with **Subsection 108.07**. Compensation for the revision, if any is necessary, will be determined in accordance with **Subsection 109.04**. The Engineer will give direction to the Contractor regarding how to proceed with Work affected by the revision.
- (b) Denial of the request for a revision to the Contract, in which case the Engineer will state why the issue does not represent a revision to the Contract. Upon receipt of such a denial, the Contractor shall continue with all Work that may have been halted due to the circumstances for which the Contractor provided notice.
- (c) A request for additional information, in which case the Engineer will identify what is needed and by when; the Engineer will issue a response within 10 working days of receiving the additional information. Any contract adjustments will exclude increased costs or time extensions resulting from the Contractor's failure to provide the requested information.

- e. **Failure to Provide Notice.** If the Contractor fails to provide notice as specified under **Subsection 104.02(d)**, the Contractor waives its entitlement to compensation or time and releases the State from responsibility for compensation or time upon the occurrence of any condition resulting in a Contract Change under **Subsection 104.02(c)**.
- f. **Contractor's Recourse.** If the Contractor disagrees with the Engineer's final written response, the Contractor may pursue a claim in accordance with **Subsection 105.18**. Failure to provide notice under **Subsection 104.02(d)** waives the Contractor's entitlement

to compensation or a time extension and releases the State from responsibility for compensation or time under any related claims brought under **Subsection 105.18**.

104.03 DIFFERING SITE CONDITIONS. During the progress of the Work, if subsurface or latent physical conditions are encountered at the Project Site differing materially from those indicated in the Contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected Work is performed. Notification procedures shall be followed in accordance with **Subsection 104.02(d)**. The State will not pay additional compensation or allow for additional Contract Time without written notice prior to initiation of the affected Work in accordance with **Subsection 104.02(d)**. Upon written notification, the Engineer will investigate the conditions and respond in accordance with **Subsection 104.02 (d)(3)**. If the Contractor disagrees with this determination, it may initiate a claim in accordance with **Subsection 105.18** but shall proceed with the Work as directed by the Engineer.

104.04 ALTERATIONS IN THE PLANS OR DETAILS. The Plans or Details are subject to change and may result in an increase, reduction, or elimination of any Contract Item. Unless otherwise provided for under **Subsection 104.07**, the Contractor shall perform such work as specified for the original unaltered quantities and the State shall pay for such work as specified in **Subsection 109.03** of these Specifications.

- a. The Engineer may find it necessary to decrease or eliminate Contract Items that involve prefabricated materials that are not considered stock commercial items. In the event fabrication of such materials was started or completed before the Contractor is advised of the decrease in quantity or elimination of the items in question, the Department will either:
 1. Direct the Contractor to retain ownership of the material and upon verification reimburse the Contractor for the cost of the material and its fabrication, less its salvage value; or
 2. Direct the Contractor to have the fabricated material delivered to the Project and placed in the custody of the Engineer to be paid in accordance with **Subsection 109.06**.

104.05 EXTRA WORK. The Contractor shall perform Extra Work when ordered by the Engineer in accordance with the Specifications and as directed. The State will compensate the Contractor for the Extra Work in accordance with 109.04. Time extensions, if warranted, will be determined in accordance with 108.07.

104.06 SUSPENSION OF WORK ORDERED BY THE ENGINEER. If the Engineer suspends all or any portion of the work for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry), and the Contractor believes that additional compensation, contract time, or both is due because of the suspension, the Contractor shall submit a request for adjustment to the Engineer upon receipt of the notice to resume work in accordance with **Subsection 104.02(d)**.

Upon receipt, the Engineer will evaluate the Contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or Subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment to cost, time or both.

No Contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term or condition of this Contract.

104.07 SIGNIFICANT CHANGES IN THE CHARACTER OF THE WORK. The Engineer reserves the right to make, in writing, at any time during the Work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the Project. The Contractor will be compensated in accordance with **Subsection 109.03** and/or **Subsection 109.04** for significant changes in the character of the Work. Otherwise, the Contractor will be paid as provided elsewhere in the Contract at the original unit price. Time extensions, if warranted, will be determined in accordance with **Subsection 108.07**. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered. If the parties disagree as to whether an alteration constitutes a significant change, the Contractor shall notify the State in accordance with **Subsection 104.02(d)**.

a. The term "significant change" applies only to the following circumstances:

1. The character of the altered Work differs materially from that involved or included in the original Contract;
2. The total quantity of a Major Contract Item of Work, as defined elsewhere in the Contract, is increased by more than 125 percent, or decreased below 75 percent of the original Contract quantity. An adjustment for an increase in quantity shall apply only to that portion in excess of 125 percent of original Contract Item quantity, or in case of a decrease below 75 percent an adjustment will be applied to the actual amount of Work performed.

104.08 MAINTENANCE OF TRAFFIC. Except as otherwise permitted by the Contract, the Contractor shall keep roads open to Traffic at all times during the Project. The Contractor shall implement all approved detour routes in accordance with the Contract. Alternative detours proposed by the Contractor shall require submission of proposed detour plans in accordance with **Subsection 105.02** and the TMP and shall require written approval from each local city/town within which the proposed detour route will be implemented.

- a. The Contractor shall maintain all portions of the Project that are open to Traffic in a condition that safely and adequately accommodates Traffic. The Contractor shall furnish, erect, and maintain all temporary traffic control devices in accordance with the latest edition of the MUTCD. The signs and other temporary traffic control devices shown on the Plans are minimum requirements. It shall be the responsibility of the Contractor to supplement the Plans if necessary to ensure the safety of Traffic. Existing traffic control devices that are inconsistent with the intended Traffic travel paths and/or restrictions on the Project roads shall be covered or removed unless otherwise approved by the Engineer. All temporary traffic control devices shall be in place and approved by the

Engineer prior to starting work at a particular location. Temporary traffic control devices shall be removed or covered when they are no longer applicable to Traffic.

- b. Except when already included in or otherwise provided for by the Contract, it shall be the responsibility of the Contractor to obtain all necessary permits, approvals, and licenses concerning haul routes and Traffic detours, and for complying with the ordinances, rules, and regulations of each local city/town within which haul routes and Traffic detours pass, all at no additional expense to the State.
- c. The Contractor shall bear all expense of maintaining Traffic affected by the Project, including but not limited to all Traffic within Project limits, along detour routes, and associated with utility work, without additional compensation except as provided below.
 1. **Maintenance of Traffic during Suspension of Work.** During any suspension of the Work, the Contractor shall open those sections of the Project to Traffic, together with temporary roadways or as otherwise mutually agreed to by the Contractor and the Engineer, in order to temporarily accommodate Traffic during the suspension. If the reason for the suspension is beyond the control and/or without fault of the Contractor, the Contractor will be paid for such maintenance of traffic on the basis of prevailing unit prices or in accordance with **Subsection 104.05.**
 2. **Maintenance of Traffic Directed by the Engineer.** If the Engineer directs maintenance of traffic that is not included within the original Contract, the Contractor will be paid for such maintenance of traffic on the basis of prevailing unit prices or in accordance with **Subsection 104.05.**
- d. The Contractor's TMP Implementation Manager and all other Contractor and Subcontractor personnel responsible for the setup, operation, maintenance, inspection, movement and/or breakdown of temporary traffic control devices shall be trained in accordance with the Department's Training Guidelines for Personnel Responsible for Work Zone Safety & Mobility and shall possess a valid (unexpired) certificate of satisfactory completion of such training. Training shall be at a level appropriate to the individual's job responsibilities and to the job decisions the individual is required to make and shall be completed prior to the commencement of Work.

104.09 MAINTENANCE OF PUBLIC ACCESS. Except as otherwise permitted by the Contract, the Contractor shall maintain existing streets, highways, roads, sidewalks, driveways, and private walks within the Project limits open to Traffic. The Contractor shall also provide and maintain in a safe and passable condition all temporary roadways, sidewalks, approaches, crossings, and intersections with trails, roads, streets, businesses, parking lots, residences, garages, farms, and other features as may be necessary, at no additional cost to the State and as directed by the Engineer. When the Work affects pedestrian traffic, the Contractor shall be responsible for the development, implementation, and maintenance of an ADA- and MUTCD-compliant temporary pedestrian access route (TPAR) at no additional cost to the State. Temporary traffic control devices for each TPAR shall be in-place and operational prior to affecting and/or restricting pedestrian traffic.

With respect to maintaining public access in the locations described in the preceding paragraph, snow removal is not required by the Contractor unless ordered by the Engineer, which will be paid for in accordance with **Subsection 104.05.** Snow removal for areas outside of the locations

described in the preceding paragraph shall be the responsibility of the Contractor, at no additional cost to the State.

104.10 RIGHTS IN AND USE OF MATERIALS FOUND ON THE PROJECT. With the prior written approval of the Engineer, the Contractor may use excavated materials within the grading limits as indicated by the slope and grade lines such as stone, gravel or sand that is acceptable for completing other bid items of Work. The State will pay for the excavation of such materials at the corresponding Contract unit price and under the pay item for which the material is used. The Contractor shall replace excavated material used for completing other bid items of work with acceptable material at no cost to the State. The Contractor shall not excavate or remove any material from within the highway right-of-way, which is outside the grading limits as indicated by the slope and grade lines without prior written approval from the Engineer.

104.11 FINAL CLEAN-UP. Prior to its submission of the Notice of Substantial Completion, the Contractor shall clean all areas occupied in connection with the Work of rubbish, excess materials, temporary structures, and excess equipment. Prior to any inspections performed after the Notice of Substantial Completion, the Contractor shall clean and remove all concrete streaks and drippings, paint smears and drippings, rust stains, oil, grease, bituminous materials, dirt, and other foreign materials on or in any structure, curb, gutter, median or gore marker due to its operation.

The cost of final clean-up shall be incidental to the work and no separate payment shall be made to the Contractor.

The Contractor shall remove its equipment, materials, and any other obstacles from the Project Right-of-Way and from property adjacent to the Project site which is not owned or controlled by the Contractor within thirty (30) days after completion of the Punch List.

104.12 RAILWAY-HIGHWAY PROVISIONS. If the Contract requires materials to be hauled across any railroad tracks, the Department will arrange with the railway company for new crossings or for the use of any existing crossings. If the Contractor elects to use crossings other than those specified in the Contract, the Contractor shall obtain specific written approval from the railway company and shall bear all costs and contract delays relating with such crossings, including installation, drainage, maintenance, insurance, watchman service, flagging protection, removal of such crossings and any other services required by the railway company.

The Contractor is responsible for executing a Temporary Permit to Enter Agreement with the railroad company before performing any work within the railroad right-of-way and must provide a copy of the executed agreement to the Engineer and obtain all insurance required in accordance with the Permit to Enter Agreement. The Contractor shall comply with all policies and requirements of the railway company.

104.13 CONSTRUCTION OVER OR ADJACENT TO NAVIGABLE WATERS. Work over, on, or adjacent to navigable waters shall be conducted so that free navigation of the waterways will not be interfered with and that the existing navigable depths will not be impaired except as allowed by permit issued by the U.S. Coast Guard or the U.S. Army Corps of Engineers, as applicable.

104.14 CONTRACTOR'S RESPONSIBILITY FOR THE WORK. The Contractor is responsible for protecting all Work from injury or damage until Final Acceptance. The Contractor shall rebuild, repair, restore, and make good all losses, injuries, or damages to any portion of the Work under the control of the Contractor at no additional cost to the State, prior to Final Acceptance. Items not under the control of the Contractor include but are not limited to damage to the Work that is caused by Acts of Nature, such as earthquake, lightning strikes, tidal wave, tornado, hurricane, or other cataclysmic phenomenon of nature, or acts of the public enemy or of governmental authorities.

In case of suspension of Work from any cause, the Contractor shall remain responsible for maintaining and preventing damage to the work, provide for normal drainage, and shall erect necessary temporary structures, signs, or other facilities. During the suspension period, the Contractor shall also maintain all newly established plantings, seeding, and sodding and shall protect new tree growth and other designated vegetative growth against injury.

All costs associated with the work described in this Subsection shall be borne by the Contractor, unless otherwise provided, under **Subsections 109.04, and 104.08.**

104.15 ENVIRONMENTAL PROTECTION. The Contractor shall comply with all Federal, State and Local laws, rules, regulations, permits, approvals and Contract Provisions controlling pollution and protection of the environment, such that the Contractor does not pollute Freshwater and or Coastal Wetlands, (including but not limited to surface water features such as rivers, streams, lakes, ponds, reservoirs, tidal waters, etc.) and all other regulated natural resource areas, (including but not limited to, waters of the state and or federal jurisdiction, wellhead protections areas, groundwater recharge/discharge areas, critical habitats, natural heritage areas, forestland, cultural/historic resources etc.) with sediment, fuels, oils, bitumens, cements, chemicals, solid and or liquid waste or other harmful or hazardous or foreign materials, and the atmosphere with particulate and gaseous matter.

The Contractor shall read, become familiar with, and adhere to all environmental permits and approvals, Plans, Contract provisions, and Standard Specifications controlling pollution and protection of the environment. The Contractor shall ensure that all employees, and all employees of each subcontractor, Prevent pollution of the environment. The Contractor shall be responsible to ensure that all employees, and all employees of each sub-contractor, comply with all Federal, State and Local laws, rules, regulations, permits, approvals, and Contract Provisions controlling pollution and protection of the environment.

When Work areas or pits are in or adjacent to any drainage system components, flowing body of water, surface water, tidal water, State or Federally regulated waters, such Work areas shall be separated from the main water body by a dike or barrier to keep sediment and pollutants from exiting the Work area.

Water from aggregate washing or other operations containing sediment and/or other pollutants shall be treated by filtration, settling basins or other means sufficient to reduce the sediment/pollutant content to levels which do not exceed that of the receiving waters/areas, and or levels allowed by specific permit, law and/or regulation.

Other requirements relating to temporary and permanent erosion and pollution controls are set forth in **SECTIONS 206** through **212** and **SECTION 214**, of these Specifications, and shall be in full effect.

The Contractor shall be responsible for payment of any fines and penalties assessed against the State or against the Contractor as a result of the Contractor's non-compliance with any Federal, State, or municipal laws, rules, regulations, permits, approvals, or Contract Provisions pertaining to the protection of the environment and shall indemnify, defend and hold harmless the State in any enforcement actions by Federal, State or Local Regulatory Authorities in accordance with **Subsection 107.13**. The State may deduct the fines and penalties assessed against it from monies due the Contractor.

Delay claims and compensation due to non-compliance of this specification, Federal, State or Local laws, Regulations and or Contract Provisions, will not be allowed. All delays resulting from non-compliance, including corrective Work, will be considered Non-Excusable Delays.

Failure to comply with the provisions of this subsection and applicable permits and approvals, as deemed by the Engineer, will result in a Failure To Comply charge and will be deducted from monies due the Contractor. Further, the State may deduct the costs incurred for corrective actions necessary for compliance with any Federal, State and Local laws, rules, regulations, permits, approvals, and Contract Provisions pertaining to the protection of the environment. The Engineer will determine whether multiple violations exist and if so, the charge will be deducted per each violation. This charge for each violation will be deducted in addition to any penalties, fines or corrective actions resulting from regulatory agency enforcement actions.

FALSIFICATION OF DOCUMENTS: Section 309(c)(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under Federal laws, rules, and regulations, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of up to \$10,000 or by imprisonment of not more than two (2) years, or by both.

- a. Plant and Pest Control Requirements.** The United States Department of Agriculture has advised that soil and soil-moving equipment operating in regulated areas of certain counties will be subject to plant and pest quarantine regulations. In general, these regulations provide for cleaning soil from equipment before it is moved from regulated areas. Complete information may be secured from appropriate divisions of the Rhode Island Department of Environmental Management and the United States Department of Agriculture.

The Contractor shall comply with these regulations where applicable to the State of Rhode Island.

104.16 VALUE ENGINEERING CHANGE PROPOSAL.

The Contractor is encouraged to use ingenuity and experience to develop and offer any Value Engineering Change Proposal (VECP) to the State for alternative construction designs, methods, procedures, and other innovations that result in a lower total cost, improved quality, or both. It is the intent of this provision to share with the Contractor any direct cost savings as a result of

VECP(s) generated by the Contractor and approved by the State. Any cost savings generated to the Contract as a result of a VECP shall be shared equally between the Contractor and the State. Bid prices shall not rely on the anticipated approval of any VECP(s) by the State. If a VECP is rejected, the Work shall be completed per the Contract requirements at the contract bid prices. VECP(s) shall only be submitted by the Contractor after the Contract is awarded.

If the State determines that the time for response indicated in the submittal under item 4e below is insufficient for review, the Contractor will be promptly notified. Based on the additional time needed by the State for review and the effect on the Contractor's schedule occasioned by the added time, the State will evaluate the need for a time adjustment to the Contract in accordance with **Subsection 108.07**.

The Contractor shall have no claim against the State for any delay to the Contract based on the failure to respond within the time indicated in item b5 or c5 below in the submittal if additional information is needed to complete the review.

- a. Submittal of VECP – General.** VECP(s) that will be considered are those contemplated to produce a savings to the State without diminishing functions and characteristics of the facility including but not limited to, service life, economy of operation, ease of maintenance, desired appearance, safety, and impacts to the traveling public or the environment during and after construction.
- b. Submittal of a Conceptual Proposal.** The Contractor may submit a conceptual proposal for preliminary evaluation for VECP(s) that require a significant amount of design or other development resources. The Engineer will evaluate the information provided and advise the Contractor if any conditions or parameters of the Conceptual Proposal are found to be grounds for rejection. Preliminary review of a Conceptual Proposal reduces the Contractor's risk of subsequent rejection but does not commit the State to eventual approval of the full VECP. The following materials and information shall be submitted with each Conceptual Proposal:

 1. A statement that the proposal is submitted as a Conceptual VECP.
 2. A general description of the difference between the existing Contract and the proposed change, and the advantages and disadvantages of each, including effects on cost, service life, economy of operation, ease of maintenance, desired appearance, safety, and impacts to the traveling public and the environment during and after construction.
 3. A set of conceptual plans and description of the proposed changes to the Contract requirements.
 4. An estimate of the anticipated cost savings.
 5. When a response to the Conceptual VECP by the State is required.
 6. Amount of time necessary to develop a Full VECP.
 7. Date by which a Contract Change Order must be executed to obtain the maximum benefit from the VECP.
 8. The effect the VECP will have on the completion dates in the Contract.
- c. Submittal of Full VECP.** The following materials and information shall be submitted with each Full VECP.

1. A statement that the proposal is submitted as a Full VECP.
 2. A description of the difference between the existing Contract and the proposed change, and the comparative advantages and disadvantages of each including effects on service life, economy of operations, ease of maintenance, desired appearance, safety and impacts to the traveling public and the environment during and after construction.
 3. A complete set of plans, specifications, and calculations, when applicable, showing the proposed revisions relative to the original Contract features and requirements. The State requires a RI Professional Engineer's stamp and signature on any Engineering changes.
 4. A complete cost analysis indicating the final estimated costs and quantities to be replaced, compared to the new costs and quantities generated by the VECP, and the cost effects of the proposed changes on operational, maintenance, and other considerations.
 5. A statement specifying the date by which a Change Order adopting the VECP must be executed to obtain the maximum cost reduction during the remainder of the Contract.
 6. A proposed revised project schedule illustrating the impacts of the VECP on the Contract completion date(s) and any other milestone dates.
 7. A description of any previous use or testing of the VECP and the conditions and results therewith. If the VECP was previously submitted on another State project, indicate the date, Contract number, action taken by the State, and any difference between the VECPs.
- d. Conditions.** VECP(s) will be considered only when all of the following conditions are met:
1. VECP(s), approved or not approved by the State, apply only to the ongoing Contract(s) referenced in the Proposal and become the property of the State. The VECP(s) shall contain no restrictions imposed by the Contractor on their use or disclosure. The State has the right to use, duplicate, and disclose in whole or in part any data. The State retains the right to utilize any accepted VECP or part thereof on any other or subsequent projects without any obligation to the Contractor. This provision is not intended to deny rights provided by law with respect to patented materials or processes.
 2. The VECP proposed work shall not contain experimental features but shall be proven features that have been used under similar or acceptable conditions on other projects or locations acceptable to the State.
 3. VECP(s) will not be considered if equivalent options are already provided in the Contract documents.
 4. If the State is already considering certain revisions to the Contract, or the Standard Specifications, or has approved certain changes in the Contract for general use which are subsequently incorporated in a VECP, the State will reject the VECP and require the Contractor to proceed without any obligation to the Contractor.
 5. The Contractor shall have no claim against the State for additional costs or delays

resulting from the rejection of a VECP, including but not limited to development costs, loss of anticipated profits, increased material, or labor costs.

6. The State will determine if a VECP qualifies for consideration and evaluation. It may reject any VECP that requires excessive time or costs for review, evaluation, or investigations, or which is not consistent with the State's design policies and basic design criteria for the Project.
 7. The Engineer will reject all or any portion of work performed under an approved VECP if unsatisfactory results are obtained. The Engineer will direct the removal of such rejected work and require construction to proceed under the original Contract requirements without reimbursement for any work performed or removal of that work under the VECP. Where modifications to the VECP are approved to adjust to field or other conditions, reimbursement will be limited to the total amount payable for the work at the Contract bid quantities and prices as if the work were constructed under the original Contract requirements. The rejection or limitation of reimbursement shall not constitute the basis of any claim against the State for delay or for any other costs.
 8. The savings generated by the VECP must be in the sole judgement of the State sufficient to warrant review and processing.
 9. A VECP changing the type or thickness or both type and thickness of the pavement structure will not be considered. Also, any VECP that solely substitutes one material for another will not be considered.
 10. Additional information needed to evaluate VECP(s), shall be provided in a timely manner. Untimely submittals of additional information could result in rejection of the VECP.
 11. Where design changes are proposed, the additional information could include results of field investigations and surveys, design computations, and field change sheets, as necessary for the State to evaluate the VECP.
 12. Approval or disapproval of a VECP on one Contract does not imply approval or disapproval on another Contract.
 13. Approval of the Conceptual VECP in no way obligates the State to approve the full VECP.
 14. No work related to a VECP shall be performed under Force Account. Agreed prices must be determined for all pay items related to the VECP before it is approved.
 15. VECP(s) that only reduce or eliminate Contract pay items will not be considered.
 16. If the VECP creates a significant change as defined in **Subsection 104.02** that would not have otherwise resulted, the Contractor has no entitlement for additional compensation as provided for in **Subsection 104.02**.
- e. Payment.** If the VECP is approved, the changes and payment will be authorized with a Change Order. Payment will be made as follows:
1. The changes will be incorporated into the Contract by changes in quantities of unit bid items, or new agreed price items, as appropriate, under the Contract.
 2. The cost of the revised work as determined from the changes will be paid directly. In addition, the State will pay the Contractor 50 percent of the savings to the State as reflected by the difference between the cost of the revised work and the cost

of the related construction required by the original Contract computed at Contract bid prices.

3. The cost for development, design, and implementation of the VECP are not eligible for reimbursement.
4. The Contractor shall submit VECP(s) for an approved Subcontractor.
5. VECP payments are for direct savings or costs. Indirect savings or costs (time, contract completion date, shift duration, user costs, etc.) will not be included in payment calculations.

SECTION 105

CONTROL OF WORK

105.01 AUTHORITY OF THE ENGINEER. The Engineer decides all questions regarding the quantity, quality and acceptability of materials furnished, Work performed, Work progress, Contract interpretation and acceptable Contract fulfillment.

The Engineer may suspend the Project, wholly or in part for the Contractor's failure to correct conditions unsafe for the workers or the public; for failure to carry out provisions of the Contract and; for failure to comply with the Engineer's direction. The Engineer may also suspend the Project, wholly or in part due to unsuitable weather and for any other condition or reason determined to be in the State's interest.

105.02 PLANS AND SHOP DRAWINGS. Plans shall be supplemented by Contractor-prepared Shop Drawings as necessary to control the Work and its prosecution. Shop drawings consisting of details that are not included in the Plans but required for the Work shall be furnished to the Department. Copies of any calculations required or used to prepare the Shop Drawings shall be furnished with the submission. Manufacturer's engineering data for prefabricated material, including that for falsework and forms shall be furnished with each set of Shop Drawings.

The Contractor shall submit to the Engineer for approval or documentation, the necessary Shop Drawings in a timely manner so as not to adversely affect the Contractor's accepted schedule. The Contractor shall not perform work for items requiring shop drawings before receiving approval of the corresponding Shop Drawings. This approval shall neither confer upon the State nor relieve the Contractor of any responsibility for the accuracy and completeness of the drawings, conformity with Contract requirements and successful completion of the Contract. Prior to approval of the Contractor's shop drawing, the Contractor bears all risk and all costs of delays for items related to the respective shop drawing.

Shop Drawings illustrate the Contractor's way it intends to carry out the work contained in the Contract and are not part of the Contract. The Contractor's submission of a Shop Drawing represents to the Engineer that the Contractor (i) coordinated the Shop Drawing with the Contract; (ii) verified and measured the field dimensions and other information; (iii) calculated all details, construction, and performance criteria; and (iv) reviewed and accepted the Shop Drawings as its means and methods.

a. Submission of Shop Drawings. All shop drawings shall be submitted in a timely fashion such that the Contractor's accepted schedule will not be adversely impacted by the submittal process.

1. Shop drawing submittals shall be via PDF files submitted electronically by the Contractor into the Department's web-based Project Management Portal (PMP), per RIDOT procedure posted in the Documents Tab. Each shop drawing submittal shall be accompanied by design computations, cuts from manufacturers' catalogs, and/or all other supporting technical bulletins and data. Upon the Department's request, once shop drawings have been approved or approved as

noted, the Contractor shall submit for the record four (4) hard copy sets of shop drawings to the Department.

2. All Shop Drawings shall be stamped only by a Rhode Island Registered Professional Engineer. The stamping of Shop Drawings shall be in accordance with the applicable requirements of the Rhode Island Board of Registration for Professional Engineers, or other Boards of Professional Registration, as applicable.

b. Approval of Shop Drawings. All shop drawings will be reviewed and returned to the Contractor for appropriate action within 45 calendar days from receipt of the submission or resubmission, or as detailed in the Contract

1. Shop drawings that are found to be erroneous, lacking required Professional Engineer stamps, lacking information necessary to control construction, or not in conformance with accepted design criteria will be rejected and returned to the Contractor. The Contractor shall address the Engineer's comments and resubmit revised shop drawings.
2. Shop drawings designated "Approved-As-Noted" may be used by the Contractor to commence corresponding work subject to satisfying the written conditions of the approval; such shop drawings shall be revised according to the notes (as applicable) and transmitted to the Engineer within fourteen calendar days of such approval.

There shall be no claims for additional payment by the Contractor, nor will there be an extension of time under Section 108.03 for delays resulting from resubmissions due to incomplete Shop Drawings; for the time taken by the Contractor to submit revised Shop Drawings caused by an erroneous submission; or by a previous submission either lacking the information necessary to control construction; or for not conforming to accepted design criteria. In addition, the Engineer's review time of the revised Shop Drawings will not constitute justification for an extension of time.

The Contract price shall include the cost of furnishing all Shop Drawings, including resubmissions. Shop Drawings are deemed incidental to the contract.

105.03 CONFORMITY WITH PLANS AND SPECIFICATIONS. Work performed, and materials furnished shall be in conformity with the lines, grades, cross sections, dimensions, and material requirements as required by the Contract, including standard industry tolerances when not otherwise specified or indicated.

If a Contract Item fails to conform to the Contract requirements, the Engineer will determine whether the work may remain in place. If the Engineer determines that the work is adequate to serve the design purpose, the Engineer may allow it to stay in place and will document the basis of this decision. However, such work may be subject to a reduced payment or credit to the State, all of which would be included in a corresponding Change Order.

If a Contract Item does not meet the Contract requirements and the Engineer determines the Work is not acceptable, the Contractor at its own expense shall remove and replace the Work to meet the Contract requirements. The Engineer may require the Contractor to propose and submit a shop drawing for approval in accordance with **Subsection 105.02**.

105.04 COORDINATION OF PLANS, SPECIFICATIONS, SUPPLEMENTAL SPECIFICATIONS, AND SPECIAL PROVISIONS. The Standard Specifications, Supplemental Specifications, Plans, Special Provisions and Contract Addenda are essential parts of the Contract and a requirement occurring in one is binding as though occurring in all. They are complementary and provide and describe the complete contract. If there is a discrepancy, the governing ranking is in order of decreasing precedence:

Dimensions

1. Plan
2. Calculated
3. Scaled

Documents

1. Special Provisions*
2. Plans
3. Supplemental Specifications
4. Standard Specifications
5. Standard Details**
6. Information received at mandatory pre-bid meetings.

* Special Provisions include General Provisions Contract Specific (CS) and General Provisions Job Specific (JS).

** Standard Details include Rhode Island Standard Details and Bridge Standard Details. The Contractor shall not take advantage of any apparent contract error or omission in the Contract and must notify the Engineer promptly of any omissions or errors so that necessary corrections and interpretations can be made.

105.05 COOPERATION BY CONTRACTOR AND REMOVAL OF PERSONNEL. The Contractor is required to keep a complete copy of the Contract Documents on the Project site at all times. The Contractor shall give the Work the constant attention necessary to facilitate progress according to the Contract and shall cooperate fully with the Engineer, its representatives, and other Contractors on or adjacent to the Project.

The Contractor shall provide a Superintendent for the Project that is available and responsive at all times and is responsible for all aspects of the Work, including subcontracted work. The Superintendent must be capable of reading and understanding the Contract and experienced in the type of Work being performed. The Superintendent shall receive instructions from the Engineer or the Engineer's authorized representatives. The Contractor shall provide full authority to the Superintendent to promptly execute the Engineer's orders or directions and supply the required materials, equipment, tools, labor, and incidentals to complete the work.

Should the Contractor, or any of its representatives fail to cooperate to the extent that the integrity of the Work is compromised, or the safe prosecution of the Work is jeopardized, the Engineer may immediately suspend all Work. Any unsafe conditions shall be corrected by the Contractor and the uncooperative person or persons shall be removed from the Project before the resumption of the Work. Failure to rectify the situation in timely manner acceptable to the Engineer may result in Contract default in accordance with **Subsection 108.09**. The Contractor shall not receive compensation for any delays, nor will it be provided with additional time due to such suspension or removal.

105.06 COOPERATION WITH UTILITIES. The Department will notify all utility companies, municipalities, pipeline owners, or other parties affected by the Work and have all necessary adjustments of the public or private utility fixtures and appurtenances within or adjacent to the limits made as soon as practicable.

Water lines, sewer lines, gas lines, power lines, communications lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cableways, signals, and all other utility appurtenances within the limits of the Project in which the respective owners hold no private easements are to be relocated or adjusted by said owners in accordance with executed Utility Construction and Maintenance Agreements.

It is understood and agreed that the Contractor has considered in its Bid all of the permanent and temporary utility facilities in their present or relocated positions as shown on the Plans and as evident on the site, and that no compensation will be allowed for any delays, inconvenience, or damage sustained due to any interference from such utility facilities or the operation of moving them unless otherwise provided for in **Subsection 104.03**.

The Contract shall indicate whether the utility owner, Contractor, or other party shall relocate or adjust the utility. When Contractors are required to retain firms to relocate the utility, it shall submit to the Engineer written statements from the respective utility companies that the firm or firms selected by the Contractor are approved for such Work prior to commencing the utility relocation work.

Prior to commencing Work, the Contractor shall make arrangements to protect the property of utility owners from damage and loss of operation. The Contractor shall notify utility owners and/or affected municipalities at least 72 hours in advance of commencement of such work.

The locations and depths of existing utilities as shown on the Plans are approximate. The Contractor shall verify the location of all existing utilities, both underground and overhead, before proceeding to commence the Work or order materials. The Contractor is specifically required to follow the Dig Safe process. Damage to existing utilities, which are shown on the Plans or located by the respective utilities in accordance with the Dig Safe process, shall be the sole responsibility of the Contractor and repaired to the satisfaction of the utility owner at no additional cost to the State.

The Contractor shall coordinate and cooperate with the utility owners in the removal and rearrangement of any underground or overhead utilities to minimize interruption to utility services and duplication of work by the utility owners. Facilities or appurtenances that are to remain in place during construction shall be accounted for and protected by the Contractor. The fact that an underground facility is not shown on the plans shall not relieve the Contractor of its responsibility under this Section. At points where the Contractor's operations are adjacent to properties of railway, telecommunications, gas, and electric power companies, and other utilities, or are adjacent to other property where damage might result in considerable expense, loss, or inconvenience, Work shall not commence until all arrangements necessary for the protection thereof have been made.

In the event utility services are interrupted due to damage or exposure, the Contractor shall promptly notify the utility owner and proper authority and shall cooperate fully in the restoration of such services. If the Contractor interrupts service, repair work shall be continuous until service is restored.

The Contractor shall be responsible for damage to identified and located utilities on or adjacent to the Project at its own expense. The Contractor shall restore damaged utilities to the satisfaction of both the utility owner and Engineer in accordance with current standards and code requirements, as well as any specific requirements of the utility owner.

The local fire authority must approve the Contractor's work plan for continued uninterrupted water service prior to commencement of work around fire hydrants. Fire hydrants shall be accessible to fire departments at all times.

If the Engineer determines that adjustment or relocation of utilities is necessary, the Engineer will make necessary arrangements with the utility owner or Contractor to perform the work not otherwise provided for in the Contract.

Should the Contractor desire to reconfigure any utility facility or other improvement for the Contractor's convenience, which is in addition to or different from, the configuration indicated in the Contract, the Contractor shall make whatever arrangements necessary with the owner for such reconfiguration and bear all related expenses.

- a. Contractor Coordination with U.S. Postal Service.** The Contractor shall notify and coordinate with the U.S. Postal Service in situations where existing U.S. Postal Boxes (mail drop/collection boxes) within the limits of the Project are to be removed and reset to allow for sidewalk/curbing construction. This requirement applies only in the case of standard U.S. Postal Service main drop boxes. It is not applicable for the removal and resetting or replacement of private mailboxes. The removal and resetting of U.S. Postal Service mail drop boxes must be conducted only by the U.S. Postal Service, and therefore the Contractor shall plan work operations to allow the U.S. Postal Service time to complete the removal prior to start of construction. Finally, the Contractor shall notify the U.S. Postal Service when the relevant work is complete so that the boxes may be reset without any subsequent disturbance or impedance to access.
- b. Contractor Coordination with Narragansett Bay Commission.** The Contractor must obtain a sewer facility alteration permit from the Narragansett Bay Commission (NBC) prior to undertaking any work that affects sanitary sewer facilities that fall within NBC jurisdiction. The permit will be issued through the NBC and can be obtained at the location indicated in **Special Provision Code 105.1000** of the Contract.

105.07 COOPERATION BETWEEN CONTRACTORS. The State reserves the right to contract separately for and perform extra or additional work within or near the Project at any time during the life of the Contract.

When separate contracts are let by the State within the limits of any one Project, each Contractor shall conduct its work without interfering or hindering the progress or completion of the work being performed by other Contractors. In case of any unavoidable interference, the Engineer will determine priorities.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with its Contract and shall protect and save harmless the State from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced because of the presence and operations of other Contractors working within or adjacent to the limits of the Project.

The Contractor shall arrange the Work and shall place and dispose of the materials used without interference to the operations of the other Contractors within or adjacent to the Project.

105.08 CONSTRUCTION STAKES, LINES, AND GRADES. The Contractor shall be responsible for performing construction surveys and shall set and maintain all construction stakes for establishing lines, slopes, profile grades, centerline and benchmarks for roadwork, bridge work, culvert work, protective and accessory structures and appurtenances. These stakes and marks shall constitute the field control by which the Contractor shall establish other necessary controls to perform the work.

The Contractor shall maintain construction lines, points, and grade staking to assure accurate and proper control of the work and to verify final grades and construction lines. The Contractor shall be held responsible for preserving all stakes and marks, and if the stakes or marks are destroyed or disturbed, the responsibility of replacing them shall be borne by the Contractor at his own expense.

The Contractor shall be responsible for the accuracy of lines, slopes, grades, and other engineering work set forth under the Contract Documents and the provisions of **SECTION 934**. No entitlement to additional compensation will be considered because of alleged inaccuracies.

All work in this Subsection is deemed incidental to the Contract and no separate payment will be made.

105.09 AUTHORITY AND DUTIES OF RESIDENT ENGINEER. As the representative of the Engineer, the Resident Engineer has immediate charge of the engineering details of each Project, and is responsible for the administration, enforcement, and satisfactory completion of the Contract.

- a. The Resident Engineer is delegated commensurate authority by the Department, including but not limited to authority to:
 1. Reject defective or non-conforming material and/or work;
 2. Suspend any work improperly performed or proceeding contrary to the Contract;
 3. Initiate Report of Change(s); and
 4. Unilaterally grant approvals that pertain to increases or decreases in quantities not greater than ten-percent (10%) of the corresponding values that appear in the Bid.
- b. The Resident Engineer does not have authority to:

1. Unilaterally change any design element or specification;
2. Unilaterally grant approvals that pertain to increases or decreases in quantities greater than ten-percent (10%) of the corresponding values that appear in the Bid; and
3. Act in a supervisory capacity for the Contractor or to interfere with the management of the Work by the Contractor. Any recommendation that the assistants or representatives of the Engineer may give the Contractor shall not be construed as directing the Contractor, or as binding the Engineer or the Department in any way, nor shall it release the Contractor from the fulfillment of the terms of the Contract.

105.10 INSPECTION OF WORK. Materials and each part or detail of the Work is subject to inspection by the Engineer. The Engineer shall be afforded unlimited and safe access, including traffic controls, to all parts of the work and shall be furnished with such information and assistance by the Contractor to make a complete and detailed inspection. The Contractor shall provide any necessary equipment for inspection, including but not limited to walkways, railings, ladders, lifts, and platforms at no additional cost to the State.

The Contractor shall remove or uncover such portions of the finished Work if directed by the Engineer. After examination, the Contractor shall restore the Work to the standard required by the Contract. Should the Work be in conformance with the contract, the uncovering, removing, and the replacing of the covering or making good of the parts removed will be paid as Extra Work. Should the work so exposed and examined indicate it is unacceptable and requires removal and replacement or is non-conforming work that may remain in place at reduced payment, the uncovering, removal, and restoration of the work shall be at the Contractor's expense.

The Contractor bears sole responsibility for the quality of work and compliance with the contract regardless of the Department's level of inspection. The Department's failure to identify defective Work or material shall not, in any way, prevent later rejection when defective Work or material is discovered, nor shall it obligate the Department to grant acceptance under **Subsections 109.08 or 109.09**.

If the Contractor fails to notify the Engineer of work performed or materials installed, which prevented an opportunity for inspection, the Engineer may order the removal or replacement of the work at the Contractor's expense.

When any unit of government or political subdivision, utility company or railroad corporation is required to accept and/or pay a portion of the cost of the work covered by this Contract, its representatives have the right to inspect the Work and shall be afforded the same access and support as if the Engineer. Such inspection does not make any unit of government or political subdivision, utility company or railroad corporation a party to the Contract, and will in no way interfere with the rights of either such party.

105.11 REMOVAL OF UNACCEPTABLE OR UNAUTHORIZED WORK. Work which does not conform to the Contract requirements will be considered unacceptable, unless accepted under the provisions of **Subsection 105.03**.

Unacceptable Work found to exist before final acceptance of the Work, whether the result of poor workmanship, use of defective or non-conforming materials, or damage through carelessness or neglect, shall be removed and replaced at the Contractor's expense.

Work performed contrary to the Contract or beyond the lines and grades shown on the Plans, or as otherwise provided will be considered unauthorized Work and may not be considered for payment. Unauthorized Work may be ordered to be removed and/or restored to its original condition at the Contractor's expense.

If the Contractor fails to promptly comply with any directive from the Engineer pursuant to this Subsection, the Engineer has the authority to have unacceptable Work and unauthorized Work removed and replaced or restored by others and to deduct that cost from any monies due or to become due to the Contractor.

105.12 LOAD RESTRICTIONS. The Contractor shall comply with all legal load restrictions in the hauling of equipment or materials on public roads beyond the limits of the Project. A special permit will not relieve the Contractor of liability for damage which may result from the moving of such equipment or materials. The Contractor will not be Paid for any materials hauled in trucks exceeding the legal load limits.

The Contractor shall not operate equipment which causes damage to any structure, roadway, or any other work. Handling or hauling of materials shall be subject to approval of the Engineer to prevent damage to the pavement. No loads will be allowed on new concrete before the concrete has attained its specified strength unless authorized in writing by the Engineer and subject to any conditions of that authorization.

105.13 MAINTENANCE DURING CONSTRUCTION. The Contractor shall maintain the Project during construction until completion as provided in **Subsection 101.18**. Such maintenance includes satisfaction of all requirements of the Contract and safe public passage through the limits of the Project. The Contractor will not be paid any additional amounts above the Contract Price for costs of maintenance work.

If the Contract requires the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

Unless otherwise specified, the Contractor shall schedule pavement removal such that no location remains unpaved for longer than ten (10) Calendar Days. This means that once the Contractor commences with the removal of existing full depth pavement from any location where traffic flow is to be maintained, he must restore the roadway with no less than a full depth bituminous base course at that location within 10 Calendar Days. In the case of partial depth pavement removal (cold planing/milling), the Contractor shall schedule the pavement removal

such that no location remains without a new paved surface course (or friction course) for longer than seven (7) Calendar days.

If the Contractor fails, in accordance with the provisions of this subsection, to maintain the Project during construction, the Engineer will notify the Contractor of such non-compliance. If the Contractor fails to promptly comply with any directive, the Engineer may immediately proceed to have the maintenance work performed by other forces. The cost of this maintenance will be deducted from monies due the Contractor.

If the Engineer determines that the work was delayed because of conditions beyond the control and without the fault of the contractor, the above requirements for pavement restoration may be extended only for a time period justified by the field conditions, based on the judgement of the Engineer.

105.14 OPENING SECTIONS OF PROJECT TO TRAFFIC. The Engineer may order certain sections of the Project to be opened to traffic before Substantial Completion or Acceptance. Opening these sections shall not constitute acceptance of the Work or a waiver of any Contract provision.

If the Contractor is late in completing features of the Work according to the Contract and/or project schedule, the Engineer will give written notification establishing a time period for completing these features. If the Contractor fails to complete the Work as directed, or make a reasonable effort to complete the Work according to the written notification, the Engineer may order all or a portion of the Project opened to traffic. The Contractor shall not be relieved of liability or responsibility for maintaining the Work, and shall conduct the remaining construction operations with minimum interference to traffic at its own expense.

105.15 FURNISHING RIGHT-OF-WAY. The State is responsible for securing Rights-of-Way in advance of construction. Exceptions will be indicated in the Contract.

105.16 PARTIAL ACCEPTANCE. The Contractor may submit a written request for acceptance of a completed portion of the Project, clearly identifying the limits of the Work.

- a. The Engineer may reject the Contractor's request for partial acceptance or, if eligible, schedule an inspection, provided that:
 1. All safety items are in place including final pavement markings;
 2. All work on a bridge (as applicable) and its approaches are complete;
 3. Traffic is in its final pattern; and
 4. The Work meets all contract provisions, including submission of all required documents.

The Engineer will designate in writing if the Work is accepted, the date of acceptance, and any warranty provisions initiated by the partial acceptance.

If the Work is not accepted, the Engineer will identify the incomplete or nonconforming portion of the Work and notify the contractor in writing. The Contractor may request a second inspection pursuant to the above provisions upon completion

and correction of the Work. If partial acceptance again is denied, the acceptance of that Work may be delayed until Final Acceptance of the Project.

Partial acceptance will relieve the Contractor of maintenance responsibility for that portion of the Work. This partial acceptance does not relieve the Contractor of responsibility to correct defective Work or repair damage caused by the Contractor or waive any other provisions of the Contract.

Additionally, the Contractor may submit quarterly a written request for partial acceptance of the following items to allow for their release of retainage:

Drum Barricades Std 26.2.0
Shadow or Advance Warning Vehicles
Flagpersons
Flagpersons OT Trainee Man-Hours
Advance Warning Arrow Panel Portable Changeable Message Board Maintenance of Traffic Control
Maintenance of Erosion Controls

b. Partial Acceptance of Contract Work Completed by a Subcontractor. Partial Acceptance of contract work completed by a subcontractor may occur when:

1. The Contractor shall notify RIDOT within 7 days upon the Contractor's assessment that the subcontractor's work is complete and ready for inspection for partial acceptance by RIDOT.
2. Within 14 calendar days of the Contractor's request, the Engineer may schedule an inspection of the work under the completed subcontract.
3. Within 21 calendar days of the inspection, the Engineer will provide the Contractor with written notice of acceptance or a report containing the following elements:
 - (a) Work not started, but required to be completed.
 - (b) Incomplete work, the completion of which is required.
 - (c) Unsatisfactory work, the correction of which is required.

The process of issuing inspection results will be completed within 60 calendar days from the receipt of the Contractor's letter requesting release of retainage.

The Contractor is obligated to complete all identified incomplete Work, and correct all noted deficiencies contained in the inspection report. Upon completing all contract Work and correcting all identified deficiencies, the Contractor shall request re-inspection.

Within 14 calendar days of the request for re-inspection of completed punch list work, the Engineer will schedule and conduct an inspection.

The Engineer will have 10 calendar days from the second scheduled inspection to respond to the Contractor with a written determination of the acceptance of the work performed. If work has been satisfactorily completed in compliance with the Contract,

the Engineer will accept that unit or portion of the work as physically completed. The Engineer will designate in writing the date of acceptance, and any warranty provisions initiated by the partial acceptance.

The Department will pay the Contractor for all work covered by the partial acceptance including the relevant portion of retainage due the subcontractor in accordance with **Subsection 109.09**.

Partial acceptance will relieve the Contractor of maintenance responsibility for that portion of the Work. This partial acceptance does not relieve the Contractor of responsibility to correct defective Work or repair damage caused by the Contractor or waive any other provisions of the Contract.

If, however, during this second inspection the Engineer finds any incomplete or unsatisfactory work, no partial acceptance will be granted, and acceptance of the unit or portion of the work must await the final acceptance of the entire project.

105.17 FINAL ACCEPTANCE. The procedure for obtaining Final Acceptance is as follows:

- a. The Contractor shall notify the Engineer in writing that the Project is substantially complete, as defined by **Subsection 101.83**.
- b. The State will perform a final inspection within 45 calendar days from receipt of the notice weather permitting.
- c. Within 45 calendar days of the inspection, the Engineer will provide the Final Inspection Report containing the Punch List to the Contractor.
- d. The Contractor shall complete and resolve all issues within the Final Inspection Report, including all Punch List items, within 60 calendar days of receipt. The 60-calendar day period for completion is suspended during winter shutdown.
- e. After 60 calendar days of punch list work completion, the Engineer will perform a second final inspection to determine if the Contractor completed the Work in accordance with **Subsection 101.18**. If the Project is complete, the Engineer will notify the Contractor in writing of Final Acceptance.
- f. If incomplete Work is noted at the time of the final inspection under e. above, the Contractor may be subject to Liquidated Damages pursuant to **Subsection 108.08**, commencing from the contract completion date.

105.18 CLAIMS FOR ADJUSTMENTS AND DISPUTES.

- a. **Notification.** The Contractor is not entitled to file a claim in accordance with this section unless it has complied with the notice provisions of **Subsection 104.02(d)**.
- b. **Submission.** Claims must be submitted in writing to the Engineer within 30 calendar days of receipt of the Engineer's written denial of the Contractor's request for a Contract change, as provided for in **Subsection 104.02(d)(3)**. Failure to submit a claim as provided above shall constitute a waiver of entitlement to compensation and/or time adjustment.
- c. **Documentation of Claims.** A claim shall be in sufficient detail to enable the Engineer to determine the basis for entitlement and the compensation and time extension due, if applicable. The following information shall be included in the claim submitted:

1. A detailed factual statement of the claim providing all relevant dates, locations and items of work affected by the claim.
2. The date that the actions resulting in the claim occurred or the conditions resulting in the claim became evident.
3. A copy of the Contractor's notification submission under **Subsection 104.02 (d)**.
4. The name and title of each Department employee knowledgeable about facts that gave rise to such claim.
5. The name and title of each Contractor or employee knowledgeable about facts that gave rise to such claim.
6. The specific provisions of the Contract which support the claim, and a statement why such provisions support the claim.
7. The identification of any pertinent documents, and the substance of any material or communications relating to the claim.
8. A statement whether the additional compensation or extension of time is based on the provisions of the Contract or an alleged breach of Contract.
9. If an extension of time is also sought, the specific days for which it is sought and the basis for such claim as determined by an analysis of the accepted Construction Schedule.
10. The amount of additional compensation sought and a breakdown of that amount.
11. A copy of the Contractor's Time Extension Request under **Subsection 108.07** and supporting documents, if the Claim includes Delay.

- d. Certification.** In addition to the information required in **Subsection 105.18(c)**, the Contractor's Claim must be accompanied by the following signed certification. The Contractor's failure to provide this certification will constitute a waiver of the Contractor's entitlement to compensation or a time extension for the claim:

CERTIFICATE OF CLAIM

The undersigned (Name and Title of Officer of the Contractor) certifies that the documentation is submitted in good faith, that the information provided is accurate and complete to the best of (the Contractor's) knowledge and belief, and that the compensation and time extension requested are accurately reflected in the subject claim.

Name and Title

Company

Date Signature

Notarized:

- e. Review of Claims.** The Engineer will acknowledge in writing receipt of the claim to the Contractor and will initiate the claim review process. During the claim review process, the Contractor shall provide the Engineer access to and, if requested, copies of any

supporting documentation, including but not limited to the following documents:

Daily time sheets and foreman's daily reports.

Union agreements, if any.

Insurance, welfare, and benefits records. Certified Payroll register.
Earnings records.

Material invoices, purchase orders, and material and supply acquisition Contracts.
Material cost distribution worksheets.

Equipment records (list of company equipment, rates, etc.) Vendor rental agreements.

Subcontractor payment certificates and invoices.

Canceled checks, receipts of electronic payments, and other supporting documentation to verify payroll payments and payments to vendors, suppliers, or subcontractors.

Job cost report.

Job payroll ledger.

The Contractor's failure to provide this access or copies as requested will constitute a waiver of the Contractor's entitlement to compensation or a time extension for the claim.

105.19 PROCEDURE FOR CLAIMS AND DISPUTES. No claim shall be allowed against the State unless the Contractor met the notification procedures in **Subsection 104.02**.

- a. The Contractor and the Department mutually agree that conditions precedent to the filing of a lawsuit include:
 1. Participation in the Department's internal claim resolution process; and, if unresolved at the conclusion of the Department's internal claim resolution process,
 2. Mediation or other mutually acceptable Alternative Dispute Resolution (ADR) procedure.
 3. The Mediator's costs and expenses associated with these ADR methods shall be borne by all parties equally.
 4. Each party shall bear its own costs in preparation and participation of these conditions precedent to the filing of a lawsuit.
 5. If such efforts are unsuccessful, claims may be adjudicated either through binding arbitration or litigation in accordance with State Law. Any party bringing an action under this section shall be entitled to an award of

prejudgment interest beginning with the filing date of such court action or date of demand for arbitration. Said interest shall be computed daily to the date of payment and shall be compounded annually. Pre-judgment and post-judgment interest shall be calculated in accordance with RI Gen. Laws §37-13.1-1, et seq.

105.20 REQUEST FOR INFORMATION (RFI). An RFI is a document submitted by the contractor requesting clarification of a portion of the Contract Documents or a field condition. All such requests shall include a detailed written statement indicating the specific Drawings or Specifications to be clarified and the clarification requested. In addition, the Contractor shall:

- a. Clearly state the item to be clarified, provide background information as appropriate, and explain why a response is needed.
- b. Identify Drawings by Drawing number and location on the sheet.
- c. Identify Specifications by Section number, page, and paragraph.
- d. Provide description of the field condition requiring clarification.
- e. Present Contractor's interpretation or understanding of the requirement.
- f. Include possible solution by text and/or drawings.

Improper RFIs are defined as:

- a. RFIs that are not complete.
- b. RFIs that request information that is clearly shown on the Contract Documents.
- c. RFIs that do not comply with the definition of an RFI as indicated above.

Improper RFIs will be returned unanswered.

Delays caused by improper RFIs are the sole responsibility of the Contractor. The Contractor is not entitled to additional time or monetary compensation as a result of such delays.

- a. **RFI Submission.** RFIs are to be entered by the Contractor into the electronic system as described for the project. The Contractor shall ensure all attachments are fully legible after download. Each page of attachments to RFIs shall bear the RFI number.

RFIs shall be originated by the Contractor. RFIs from subcontractors or material suppliers shall be submitted through, reviewed by, commented on, numbered, logged, and signed by the Contractor prior to submission to the Department.

The Contractor shall carefully study the Contract Documents to determine that the requested information is not available therein. RFIs which request information available in the Contract Documents will be deemed improper, as defined above.

RFIs shall be identified and submitted by the Contractor in a timely fashion in order to not cause delay to the Project. Any delays due to the untimely submission of RFIs will be the responsibility of the Contractor.

RFIs shall not be used for the following purposes:

1. To request approval of submittals.

2. To request approval of substitutions.
 3. To request different methods of performing work than those drawn and specified.
 4. To request changes to the Contract Documents.
 5. To request additional cost or credit.
 6. As routine written communications between the Department and the Contractor.
 7. To reply to notices issued by the Department.
 8. To clarify subcontract bid questions.
 9. For any other purpose not listed in this Specification.
- b. RFI Response.** RFIs do not automatically justify a cost increase in the work or a change in the Project Schedule. Answered RFIs shall not be construed as approval to perform extra work.

Responses from the Department will not change any requirement of the Contract Documents. If the Contractor believes that a response to an RFI will cause a change to the requirements of the Contract Documents, the Contractor shall immediately give written notice to the Department stating that the Contractor considers the response to require a Change Order. Failure to give such written notice immediately (48 hours) shall waive the Contractor's right to seek additional time or compensation.

The Contractor shall allow the Department 30 days review and response time for RFIs.

105.21 Tolling Facilities. Tolling facilities are defined as the steel gantry (or gantries), gantry supports, foundations, hardware, tolling equipment (both attached to the gantry and roadside), electrical cabinets, electrical cables and conduits, communication cables and conduits, manholes, handholes, utility poles, guardrail, barriers, and any other tolling infrastructure needed to safely operate the tolling location. Short-term is defined as a lane closure or lane shift for a twenty-four (24) hour duration or less. Any lane closure or shift that is not considered short-term is considered long-term.

Except for short-term outages due to scheduled construction activity, all tolling locations within the project limits must continue to collect revenue during the construction of the project. The contractor shall schedule the work to minimize impacts to the tolling facility. The contractor must conform to the following:

- a. It is the contractor's responsibility to locate the tolling facility, including any portion that may be underground prior to the commencement of any work.
- b. The tolling facility cannot be relocated. Temporary bypass or crossover roads that result in traffic not flowing under the gantry will not be allowed without written approval of the Department.

- c. If guardrail or barrier protecting the tolling facility is temporarily removed, the tolling facility must be protected by temporary barrier whose allowable deflection is less than the distance between the barrier and the tolling facility.
- d. Access to the tolling facility must be maintained at all times, including means for RIDOT and RIDOT's Tolling Contractor to safely access the facility from the limited access roadway.
- e. The tolling facility is configured to the existing lines and grade of the highway which passes underneath it. Any changes to the pavement elevation, pavement markings, tolling control points, lane alignment or roadway alignment will require RIDOT's Tolling contractor to reconfigure and/or recalibrate the tolling facility. The contractor must plan the work to minimize disruption to the tolling facility by reducing the amount of downtime, reconfiguration, and recalibration necessary.
- f. No traffic splits or bifurcated traffic will be allowed within one hundred (100) feet of a toll gantry without written approval of the Department.
- g. When milling to remove pavement one hundred (100) feet on either side of the gantry, the contractor shall mill the complete width of the roadway in one shift.
- h. The roadway shall be repaved as expeditiously as possible while conforming to requirements of the Bluebook. If the entire roadway cannot be repaved during a single shift, the roadway shall be repaved on consecutive days until the entire roadway under the gantry is repaved and line striping in its permanent location is installed while conforming to requirements of the Bluebook. It is the contractor's responsibility to schedule the work so that the paving can be completed on consecutive days and also conform with the approved Traffic Management Plan.
- i. The contractor shall submit a milling and paving schedule for work within one hundred (100) feet on either side of the gantry to RIDOT at least three (3) weeks in advance showing the approximate dates of the milling and paving operations. The contractor shall revise the approximate dates with actual dates no later than one (1) week prior to the start of milling or paving.
- j. The contractor shall not park any vehicles or equipment or store any materials within one hundred (100) feet on either side of a toll gantry.
- k. All lane closures or shifts, whether permanent or temporary, must be coordinated with the RIDOT Tolling Section. Long-term lane shifts or lane closures will require the contractor to submit a twenty-one (21) day notice to the RIDOT Tolling Section. Short-term lane closures or shifts will require 48 hours' notice to the RIDOT Tolling Section, not including weekends or holidays. Notice as defined in this paragraph shall be provided by the contractor to the RIDOT Tolling Section through the RIDOT Project Manager. Notice in this paragraph is in addition to any other notices required.
- l. Any damage to the tolling facility due to construction operations as determined by the Department will be the responsibility of the contractor. RIDOT will repair the tolling facility and the contractor must reimburse RIDOT for any and all costs associated with the damage, including but not limited to, reimbursement of repair costs, and RIDOT staff time.
- m. Costs associated with adjustments and/or recalibration of the tolling facility due to lane shifts, milling, and/or paving operations will be the responsibility of RIDOT.

SECTION 106

CONTROL OF MATERIAL

106.01 CERTIFICATION OF MATERIALS. All materials used in the Work shall meet all requirements of the Contract, including but not limited to the requirements of the “Master Schedule of Testing (MST) for the Preparation of a Project Schedule for Sampling, Testing, and Certification of Materials.” All materials are subject to inspection, which includes but is not limited to acceptance sampling and testing, by the Engineer. Results of testing performed by the Contractor shall not substitute for acceptance testing, and shall only be used by the Contractor for Quality Control purposes. All materials shall be new unless otherwise specified in the contract.

The Department reserves the right to re-inspect any materials at any time prior to issuing Final Acceptance.

a. Buy America Requirement – For Federal-Aid Projects. The Contractor shall perform the Work pursuant to 23 U.S.C. et seq. Buy America, and Title 23 of the Code of Federal Regulations, Buy America requirements. Exempted from this requirement are iron ore, pig iron, reduced/processed/pelletized iron ore, and raw alloys.

- 1. Certification.** For Federal-Aid Projects, the Contractor shall submit to the Engineer a Certification of Compliance from the manufacturer for all steel and iron materials certifying that the product meets the Buy America requirements for each lot or shipment.
- 2. Minimal Use.** A minimal amount of foreign steel and iron is allowed to be incorporated into a Federal-Aid Project. This amount is defined as one-tenth of one percent (0.1 percent) of the total Contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the cost of the steel and iron products as they are delivered to the Project, which excludes installation costs. The Contractor shall submit copies of paid invoices for the foreign steel and iron products.

106.02 INSPECTION, SAMPLING AND TESTING. Prior to any Department sampling and testing for acceptance, the Contractor shall perform all inspection, sampling and testing for quality control (QC) as required by the Contract and as needed to meet the project specifications. The Contractor shall not rely on any Department testing results for controlling its operations and processes.

The Department will perform all inspection, sampling and testing for acceptance and will not use Contractor QC test results for acceptance. Upon request by the Contractor, copies of acceptance inspection, sampling and testing information, including test results, will be provided by the Department. Work and/or material may be inspected, sampled, and tested for acceptance by the Department at any time prior to, during, or after incorporation in the Project including up to the time of inspection of Final Acceptance punch list items.

All inspection, sampling and testing of work and/or materials must be performed by qualified personnel and Laboratories, in accordance with the most current specified standards of AASHTO, ASTM or other organizations adopted or approved by the Department, and in

accordance with requirements specified in the Contract. Additionally, for Federal-aid Projects, such will be performed also in accordance with Title 23 of the Code of Federal Regulations Part 637, Construction Inspection and Approval. Whenever there is an AASHTO designation followed by an ASTM designation, the AASHTO designation will govern when there are differences between the two standards, as determined by the Engineer.

The Department will determine the extent and manner for sampling and testing Work where standard test procedures are not specified or applicable.

106.03 CERTIFICATES OF COMPLIANCE, WARRANTIES AND GUARANTEES. The Engineer may permit use, prior to sampling and testing, of certain materials or assemblies accompanied by Certificates of Compliance (CoC), signed by the manufacturer, that certify that each manufacturer's lot of identified manufactured materials or assemblies complies with the requirements of the Contract. Each CoC shall contain a list of the specific Contract provisions being certified.

The Contractor shall not incorporate the materials or assemblies in the Work prior to acceptance of the CoC by the Engineer. If requested by the Engineer, the Contractor shall provide copies of the manufacturer's documentation used to substantiate the CoC.

The Engineer reserves the right to perform its own inspection, sampling and testing for acceptance of any product, regardless of whether accompanied by a CoC, all in accordance with **Subsection 106.02**. The Engineer reserves the right to reject any product solely on the basis of an inadequate CoC.

- a. **Unexpired Warranties and Guarantees** - If the manufacturer provides the Contractor with a warranty or guaranty for the materials or assemblies which have not expired at the time of Final Acceptance, then the warranty or guaranty shall then be transferred to the State.

106.04 PLANT INSPECTION. The Engineer may inspect the Contractor's plant or production facilities and operations. The Engineer may obtain material samples for determining compliance with the requirements of the Contract. Acceptance or rejection of plant or production facilities and operations may be based on visual inspection and/or records.

When the Engineer inspects the plant or production facilities and operations the following conditions shall apply:

- a. The Contractor and plant operator shall cooperate with the Engineer and provide assistance as requested at no additional expense to the State.
- b. The Contractor and plant operator shall provide the Engineer access to those parts of the plant or production facilities and operations where storage, manufacture or production occurs.
- c. The Contractor and plant operator shall provide and maintain for the Engineer's use at the plant or production facilities all personal protective equipment and other safety

measures as necessary and as required by OSHA.

106.05 GENERAL STORAGE OF MATERIALS ON SITE. To ensure the preservation of the quality and fitness for the Work, materials shall be stored according to the requirements of the Contract including but not limited to the manufacturer's recommendations. Stored materials, even though approved before storage, may again be inspected prior to their use in the Work. Materials shall be stored to facilitate inspection by the Engineer. All costs associated with **Subsection 106.05** shall be at the sole expense of the Contractor.

a. Location of Stored Materials and Equipment.

1. **Roads without Curbing and Sidewalks.** Materials and/or equipment shall not be stored within existing and/or newly constructed travel lanes, designated parking areas, paved shoulders, or adjacent areas other than as noted below. Materials and equipment may be stored within specified areas only with written approval by the Engineer. Materials stored in these locations must be removed within fourteen (14) calendar days. Material and/or Equipment may be stored during successive daily operations as follows:

Posted Speed	Minimum Clear Distance from Edge of Pavement
35 mph or less	12 feet
40-45 mph	16 feet
50 mph	20 feet
55 mph or greater	35 feet

2. **Roads with Curbing and/or Sidewalks.** Materials and/or equipment shall not be stored within existing or newly constructed travel lanes, paved shoulders, or designated parking lanes. No portion of the sidewalks may be used for storage of equipment and/or materials.
3. **Stormwater Water Quality Treatment Areas.** Areas that have existing water quality structures, new water quality structures or proposed water quality structures shall not be used to store materials and/or equipment.

The Contractor shall not store material or equipment in a manner that would impede or impair the safety of Traffic.

Storage of equipment and/or materials not utilized in the daily operations is prohibited unless otherwise authorized by the Engineer.

All trash must be contained and disposed of legally. All waste and/or spent material shall be removed from the site daily.

All erodible material stockpiles must be covered and contained with the proper erosion controls.

All portions of an area used for storage of construction material and/or equipment must be clearly delineated with appropriate traffic control devices, erosion control devices, pollution control devices, and as directed by the Engineer.

The Contractor shall not store material and/or equipment in a manner that would impair or impede traffic safety.

Storage site entrance shall utilize RI Standard 9.9.0 Construction Access

Storage sites shall be restored to their original condition at the sole expense of the Contractor, and as directed by the Engineer.

Additional storage space outside the contract limits is at the Contractor's discretion. The Contractor shall obtain written permission from property owners/lessees prior to storing materials or equipment and shall furnish copies of such permission to the Engineer.

The Contractor shall comply with all Federal, State, and local statutes, regulations, and ordinances relating to the storage of materials and/or equipment, and shall be liable for all damages for any violations.

106.06 HANDLING MATERIALS. To ensure the preservation of the quality and fitness for the Work, materials shall be handled according to the requirements of the Contract including but not limited to the manufacturer's recommendations. Materials shall be transported in a manner to prevent loss, damage, or segregation after loading and measuring.

106.07 MATERIALS NOT WITHIN CONTRACT REQUIREMENTS. Any material used in the Work that fails to meet the Contract requirements shall be corrected to conform to the Contract requirements or removed and replaced at the Contractor's expense. If the Engineer determines removal or replacement of the material would compromise the integrity of the Work performed, pay factors will be applied.

106.08 STATE-FURNISHED MATERIAL. Any materials furnished by the State will be delivered or made available to the Contractor as provided in the Contract. The cost of handling and placing State-furnished materials shall be included in the Contract price for applicable bid items.

The Contractor shall be responsible for all material delivered or made available. Deductions will be made from any monies due the Contractor for shortages, deficiencies, other causes, and damage which may occur after delivery. Demurrage charges, resulting from the Contractor's failure to accept the material at the designated time and point of delivery will also be deducted from monies due the Contractor.

SECTION 107

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

107.01 LAWS TO BE OBSERVED. The Contractor shall keep fully informed with, and observe and comply with all Federal and State laws, local laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority, as amended, which in any manner affect the Work or those engaged or employed in the Work

- a. The Contractor shall protect, defend, and indemnify the State and its representatives against any claim or liability arising from the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor, the subcontractors, suppliers of materials or services, or others engaged by the Contractor, or the employees of any of them. If any discrepancy or inconsistency is discovered between the Contract and any law, ordinance, regulation, order or decree, the Contractor shall immediately report the same to the Engineer in writing.
- b. The Contractor shall execute and file such documents, statements, and affidavits required under applicable Federal or State law or regulation affecting its Proposal, Contract or the prosecution of the Work. The Contractor shall permit the examination of any records required by Federal and State laws, local laws, ordinances, or regulations.

107.02 SPECIFIC STATUTES REQUIRED TO BE INSERTED. Every Contract for the construction of public works by the State, or by persons or organizations contracting with the State for such construction, shall contain the following provisions from the General Laws of Rhode Island:

- a. **Title 37, Chapter 13, Sections 5, 6, and 7**, respectively, of the General Laws of Rhode Island, entitled "Labor and Payment of Debts by Contractors," read as follows:

§ 37-13-5 Payment for trucking or materials furnished – Withholding of sums due.

– A contractor or subcontractor on public works authorized by a proper authority shall pay any obligation or charge for trucking and material which have been furnished for the use of the contractor or subcontractor, in connection with the public works being performed by him or her, within ninety (90) days after the obligation or charge is incurred or the trucking service has been performed or the material has been delivered to the site of the work, whichever is later. When it is brought to the notice of the proper authority in a city or town, or the proper authority in the state having supervision of the contract, that the obligation or charge has not been paid by the contractor or subcontractor, the proper authority may deduct and hold for a period not exceeding sixty (60) days, from sums of money due to the contractor or subcontractor, the equivalent amount of such sums certified by a trucker or materialman creditor as due him or her, as provided in this section, and which the proper authority determines is reasonable for trucking performed or materials furnished for the public works.

§ 37-13-6 Ascertainment of prevailing rate of wages and other payments – Specification of rate in call for bids and in contract. – Before awarding any contract for public works to be done, the proper authority shall ascertain from the director of labor and training the general prevailing rate of the regular, holiday, and overtime wages paid and the general prevailing payments on behalf of employees only, to lawful welfare, pension, vacation, apprentice training, and educational funds (payments to the funds must constitute an ordinary business expense deduction for federal income tax purposes by contractors) in the city, town, village, or other appropriate political subdivision of the state in which the work is to be performed, for each craft, mechanic, teamster, laborer, or type of worker needed to execute the contract for the public works. The proper authority shall, also, specify in the call for bids for the contract and in the contract itself the general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees only, to the welfare, pension, vacation, apprentice training, and education funds existing in the locality for each craft, mechanic, teamster, laborer, or type of worker needed to execute the contract or work.

§ 37-13-7 Specification in contract of amount and frequency of payment of wages.

– (a) Every call for bids for every contract in excess of one thousand dollars (\$1,000), to which the state of Rhode Island or any political subdivision thereof or any public agency

or quasi-public agency is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the state of Rhode Island or any political subdivision thereof, or any public agency or quasi-public agency and which requires or involves the employment of employees, shall contain a provision stating the minimum wages to be paid various types of employees which shall be based upon the wages that will be determined by the director of labor and training to be prevailing for the corresponding types of employees employed on projects of a character similar to the contract work in the city, town, village, or other appropriate political subdivision of the state of Rhode Island in which the work is to be performed. Every contract shall contain a stipulation that the contractor or his or her subcontractor shall pay all the employees employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates not less than those stated in the call for bids, regardless of any contractual relationships which may be alleged to exist between the contractor or subcontractor and the employees, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of the accrued payments as may be considered necessary to pay to the employees employed by the contractor, or any subcontractor on the work, the difference between the rates of wages required by the contract to be paid the employees on the work and the rates of wages received by the employees and not refunded to the contractor, subcontractors, or their agents.

1. The terms "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" shall include:

(a) The basic hourly rate of pay; and

(b) The amount of:

(1) The rate of contribution made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(2) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to employees pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the employees affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of the benefits; provided, that the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the director of labor and training insofar as this chapter of this title and other acts incorporating this chapter of this title by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in subsection (b)(2), or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in this subdivision, or any combination thereof, where the aggregate of any payments, contributions, and costs is not less than the rate of pay described in subsection (b)(1) plus the amount referred to in subsection (b)(2).

(3) The term "employees", as used in this section, shall include employees of contractors or subcontractors performing jobs on various types of public works including mechanics, apprentices, teamsters, chauffeurs, and laborers engaged in the transportation of gravel or fill to the site of public works, the removal and/or delivery of gravel or fill or ready-mix concrete, sand, bituminous stone, or asphalt flowable fill from the site of public works, or the transportation or removal of gravel or fill from one location to another on the site of public works, and the employment of the employees shall be subject to the provisions of subsections (a) and (b).

(4) The terms "public agency" and "quasi-public agency" shall include, but not be limited to, the Rhode Island industrial recreational building authority, the Rhode Island economic development corporation, the Rhode Island airport corporation, the Rhode Island industrial facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island public transit authority, the Rhode Island student loan authority, the water resources board corporate, the Rhode Island health and education building corporation, the Rhode Island turnpike and bridge authority, the Narragansett Bay water quality management district commission, Rhode Island telecommunications authority, the convention center authority, the board of governors for higher education, the board of regents for elementary and secondary education, the capital center commission,

the housing resources commission, the Quonset Point-Davisville management corporation, the Rhode Island children's crusade for higher education, the Rhode Island depositors economic protection corporation, the Rhode Island lottery commission, the Rhode Island partnership for science and technology, the Rhode Island public building authority, and the Rhode Island underground storage tank board.

b. Title 28, Chapter 26, Section 5 of the General Laws of Rhode Island, entitled "License Required for Operation of Hoisting Machinery," reads as follows:

§ 28-26-5 License required for operation of hoisting machinery. – (a)(1) No person shall operate or be in direct charge of hoisting or excavation equipment which uses, steam, internal combustion engines, electric, or compressed air of five (5) horsepower or more and/or can lift more than five hundred pounds (500 lbs.) without obtaining a license to do so as provided in this chapter.

1. No user or agent of a user of any machinery described in subdivision (1) of this subsection shall permit the machinery to be operated unless it is operated by a duly licensed person as provided in this chapter.

2. Every contract in the construction of public works by the state or by any city or town, or by persons contracting with the city, town or state for the construction, shall contain a clause embodying the provision of this section.

3. In the event of any inconsistencies and/or contradiction between the requirements of this section and those of § 23-33-30, and/or in any respective rules and or regulations promulgated pursuant to that section, the provisions of this section and any rules and or regulations promulgated pursuant to this section shall be deemed to be controlling.

c. Chapters 85, 86, AND 88 of the Public Laws of Rhode Island, 1960:

Section 123 of the aforesaid chapters defines the authority of Director of Department of Public Works and use of Federal assistance and provides in part that in the event that Federal funds or Federal assistance are made available to the State for use in carrying out highway projects, said projects shall be carried out and executed in all respects subject to the provisions of the appropriate Federal law providing for the construction of such projects and the rules and regulations made pursuant thereto, and to such terms, conditions rules and regulations, not inconsistent with such Federal law, rules and regulations as said Director may establish to ensure the proper execution of said projects, therefore, any provisions of the State laws that conflict with the Federal laws, rules and regulations are not applicable to projects financed in whole or in part with Federal Aid Highway funds.

d. Title 5, Chapter 6, Section 2 of the General Laws of Rhode Island, entitled "Work for Which License Required," reads as follows:

§ 5-6-2 Work for which license required. –

(a)(1) No person, firm, or corporation shall enter into, engage in, solicit, advertise, bid for, or work at the business of installing wires, conduits, apparatus, fixtures, electrical signs, lightning protection equipment as defined in

§ 5-6-1, and other appliances for carrying or using or generating electricity for light, heat, fire alarms, as defined in chapter 28.25 of title 23, entitled "Fire Alarm Systems", or power purposes, exclusive of low voltage wiring for heating/refrigeration equipment, or work at the business of removing and reattaching existing electrical meters, unless that person, firm, or corporation shall have received a license and a certificate for the business, issued by the state board of examiners of electricians of the division of professional regulation of the department of labor and training in accordance with the provisions set forth in this chapter.

(2) That person shall carry this license on his or her person at all times while so engaged, and shall affix his or her contractor's license number to any advertisement and/or contract he or she executes and/or to any bid he or she files with any consumer for his or her professional services and to any applicable permit required for the performance of those services.

(b) Any person, firm or corporation which is required to apply for a permit from a local building official for any work required to be performed by a person licensed under the provisions of this chapter shall cause the work to be performed by a person licensed under the provisions of this chapter; provided, that the provisions of this section, except the provision regarding removing and reattaching existing electrical meters, shall not apply to owner-occupied single-family homes.

107.03 PERMITS, LICENSES, AND TAXES. Unless provided by the State in the Contract, the Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the prosecution of the Work, at the Contractor's own cost. The Contractor is responsible to secure permits, variances, or modifications to the permits secured by the State necessary for the Contractor's means and methods of construction.

107.04 PATENTED DEVICES, MATERIALS, AND PROCESSES. If the Contractor employs any design, device, material, or process covered by letters of patent or copyright, the Contractor shall provide for such use by suitable legal agreement with the patentee or owner. The Contractor and the Surety shall defend and indemnify the State, any affected third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material, process, trademark, or copyright. The Contractor shall indemnify the State for costs, expenses, and damages which it may be obligated to pay by reason of any infringement thereof, during the prosecution or after the completion of the Contract.

107.05 RESTORATION OF SURFACES OPENED BY PERMIT. The right to construct or reconstruct any utility service in a State owned and/or maintained highway or to grant permits for same is expressly reserved by the Department. The Contractor shall not be entitled to damages either for digging up the highway and for an associated delay, unless otherwise provided for under **Subsection 104.03.**

Any individual, firm, or corporation wishing to make an opening in the highway must first secure a permit from the Department. The Contractor shall allow parties bearing such permits, and only those parties, to make openings in the highway. When directed by the Engineer, the Contractor shall make all repairs necessitated by such openings. This Work will be paid for as either Extra Work, or as otherwise provided in the Contract. All repair Work is subject to the same requirements of the Contract Documents.

107.06 FEDERAL-AID PARTICIPATION. When any Federal laws, rules, or regulations are in conflict with any provisions of a Federally-assisted Contract, the Federal requirements will prevail, take precedence, and be in force over and against any such conflicting provisions.

If there is Federal participation in the cost of the Project, the work shall be performed under the supervision of the State but subject to the inspection and approval of the United States Government. Such inspection shall neither make the United States Government a party to this Contract nor interfere with the rights of either party to said Contract. At no additional cost to the State, the Contractor shall fully cooperate with the inspection and provide safe access to all Project areas and allow the United States Government to examine any records or interview any person working on this Contract. Nothing in this section shall be interpreted to limit or restrict in any way the authority of the United States Government.

107.07 SANITARY, HEALTH, AND SAFETY PROVISIONS. The Contractor shall observe and comply with all Federal and State laws, local laws, ordinances, rules, regulations, and orders pertaining to sanitary, health, or safety provisions. The Contractor shall not require any worker to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health or safety. The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of its employees and the State as may be necessary to comply with the requirements of the Contract.

The Contractor shall admit without delay and without the presentation of an inspection warrant, any inspector of the Occupational Safety and Health Administration or other legally responsible agency involved in safety and health administration upon presentation of proper credentials.

107.08 PUBLIC CONVENIENCE AND SAFETY. The Contractor shall construct the Project in a manner to minimize obstructions to traffic. The Contractor shall provide all adequate safeguards, safety devices, protective equipment, and any other needed actions to protect the public and property in connection with the performance of the Work and as specified under **Subsection 104.08**. The Contractor shall perform any measures or actions the Engineer may deem necessary to protect the public and property. The Engineer will suspend the Work of the Contract if the Contractor fails either to comply with said safety provisions or provide adequate protection for inspection of the Work by the Engineer. Except for work done under items in the Contract, work prescribed herein will not be paid for separately but is incidental to the Work.

a. Accident Reports - The Contractor shall report all accidents on the Project to the Engineer. The Contractor shall furnish the Engineer with two copies of a report of any accident occurring on the Project that involves:

1. Personal injury requiring medical treatment;

2. Loss of time on the job; or
3. Public liability or property damage.

Accident reports shall be submitted on forms acceptable to the Engineer.

107.09 BARRICADES AND WARNING SIGNS. The Contractor shall provide, erect, and maintain all necessary barriers, barricades, lights, signs, and other traffic control devices, and shall take all necessary precautions for the protection of the Work and the safety of the public.

Highways or bridges closed to traffic shall be protected by traffic control devices in accordance with the latest edition of the MUTCD.

107.10 USE OF EXPLOSIVES. Use of explosives is prohibited except when provided by the Contract.

The Contractor shall obtain all required permits or licenses for possession and use of explosives.

The Contractor shall comply with all pertinent laws and ordinances, including but not limited to Title 29 and Title 30 of the Code of Federal Regulations, and the Safety and Health Regulations for Construction of OSHA, and R.I.G.L. 23-28.28, whichever is the most restrictive, in the use, handling, loading, transportation, and storage of explosives and blasting agents.

If the Contractor uses explosives, the Contractor shall not endanger life, property, or the Work. The Contractor shall be liable for all property damage and injury resulting from the use of explosives.

- a. General Requirements.** The Contractor shall be solely responsible for employing such plant, equipment and construction means and methods necessary to accomplish the Work of this Contract with complete safety and without damage to persons, existing buildings, structures, facilities, and utilities.

The Contractor shall furnish the services of technical representatives of the manufacturer of the explosive materials. Such individuals shall be experienced in the use of explosives in blasting operations under the circumstances to be encountered in the Work of this Contract. The Contractor shall furnish the services of the explosive manufacturer's representatives for such lengths of time prior to starting blasting operations as is necessary to determine the proper equipment, devices, materials, methods and procedures to be used for the proper performance of the Work. The Contractor shall also furnish the services of the explosive manufacturer's representatives during the preparation for, and progress of blasting operations for such lengths of time and as frequently as necessary to assure that blasting operations are performed in a safe and proper manner.

All operations involving explosives and/or blasting agents shall be in accordance with the "NFPA 495: Explosives Materials Code", as amended. Wherever the Code and the Rhode Island Standard Specifications conflict, the Code shall apply. For blasted excavation work, the Contractor shall be responsible for developing the means and methods necessary to

attain rock slopes consistent with the most conservative of the safety requirements.

- b. Care in Blasting.** It is required that blasting operations be conducted with all possible care and in such a manner as to prevent injury to persons and property. For each occurrence of blasting, a sufficient warning shall be given to all persons in the vicinity of the Work in accordance with the "NFPA 495: Explosives Materials Code", as amended, but not later than immediately before blasting. No blasting is allowed within 25 feet of an existing building or in-service underground utility line.
- c. Power of Explosives.** The explosives employed shall be of such power and placed in such quantities and positions that will not:
1. unduly enlarge the excavation;
 2. unnecessarily shatter the rock beyond the limits of the excavation;
 3. injure Work already in place.
- d. Transportation, Handling, and Storage.** Explosives must be carefully transported, stored, handled, and used as required by applicable Federal, State, and local law, codes and ordinances. The necessary permits for such transportation, storage, handling, and use shall be obtained by the Contractor. Each storage facility shall be clearly signed "Danger – Explosives" with the signs visible on all exterior walls of the facility. The Contractor shall keep on the job only such quantity of explosives as may be needed for the Work underway and only during such time as they are being used. Explosives shall be stored in a secure manner and separately from all tools. Caps or detonators shall be stored separately and at a point over 100 feet distant from the explosives. When the need for explosives is ended, all such material remaining on the job shall be promptly removed from the premises.
- e. Approval by the Engineer.** The Contractor shall submit to the Engineer its safety program which shall include but not be limited to procedures for the prevention of injury to persons and of damage to property and the Work. The Engineer may reject the safety plan for any deficiency. The Engineer's approval does not relieve the Contractor from any responsibility or liability from its use of explosives. The Contractor shall revise and resubmit rejected plans accordingly. The Contractor shall comply with this program at all times during the prosecution of the Work.

Not later than 2 calendar weeks prior to commencement of blasting, the Contractor shall present permits to the Engineer before any blasting will be allowed. The written approval of the Engineer shall be obtained before blasting initially commences. If the Engineer determines at any time that the use of explosives is unsafe or dangerous to persons, property, utilities, or the Work, the Engineer may direct the Contractor to use other means that do not require the use of explosives, at no additional expense to the State.

- f. Notification of Local Authorities and Utilities.** Before any explosives or detonator caps are stored or used under this Contract, the Contractor shall notify all Police, Fire, public works, public officials, and utilities where the Project is located as required by applicable Federal, State, and local law, codes and ordinances.

In addition, the Contractor shall be responsible for the following:

1. For designating an individual who shall be responsible for the explosive materials at all times;
2. For the immediate reporting of all unaccounted explosive materials to the Engineer, Police, Fire, public works, public officials, and utilities where the Project is located.

g. Records. The Contractor shall keep a complete record of blasting operations, noting the date, exact location with reference to a datum, weight of charge, and whether the firing was instantaneous or delayed and in accordance with Federal, State, and local law, codes and ordinances. The Contractor shall furnish the Engineer with a complete record of blasting operations during the preceding weekly period. These records shall indicate by date the quantity and type of explosive materials delivered to the construction site(s); the quantity of explosive material used; and the quantity of such material subsequently removed from the construction site(s). Immediately upon request, all records related to the possession and use of explosive materials shall be provided for review by the Engineer, Police, Fire, public works, public officials, and utilities. The Engineer may withhold payments related to blasting work until such records are submitted. The Contract prices for the various items of Work shall include the cost for providing complete records of blasting operations.

h. Repairs. The Contractor will be responsible for any damage to existing roadway and roadside surfaces, drainage lines, structures, or other objects as a result of the use of explosives. The Contractor will be required to repair such damage as directed by the Engineer and in accordance with specifications of the Contract. All such repairs shall be made at the Contractor's own expense.

107.11 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE. The Contractor shall protect all public and private property impacted by its operations. The Contractor shall not move, disturb, or damage any land monuments or property markers unless directed by the Engineer or otherwise provided in the Contract.

The Contractor is responsible for damage to public and private property resulting from any act, omission, neglect, misconduct in the Contractor's method of executing the Work, defective Work or materials, or failure to perform the Contract.

The Contractor shall restore all damaged property to a condition similar or equal to that existing before the damage or injury occurred at its own expense. If the Contractor fails to restore the damaged property, the State may restore such property and deduct such amounts from the Contract balance.

Moved, disturbed, or damaged land monuments or property markers shall be replaced in accordance with the standards set forth in 435-RICR-00-00-1 Rules and Regulations for Professional Surveying in the State of Rhode Island.

107.12 CULTURAL RESOURCES. If the Contractor encounters artifacts of historical or archaeological significance, then the Contractor shall immediately cease its operations in that area and notify the Engineer in writing. The Engineer will inform the RIDOT Historic Preservation Specialist who will determine the disposition of that site and determine the appropriate methods to preserve the artifacts. Any requests for compensation or claims shall be submitted in accordance with the Contract.

107.13 PUBLIC LANDS PROTECTION. When performing Work within or adjacent to public lands, including but not limited to State or national forests, parks, or other public or federal lands, the Contractor shall comply with all Federal and State laws, local laws, ordinances, rules, regulations, and orders. The Contractor shall maintain the areas in a safe and clean condition,

dispose of all refuse, and obtain permits for the construction and maintenance of all construction camps, stores, warehouses, residences, sanitary facilities, and other structures.

107.14 RESPONSIBILITY FOR DAMAGE CLAIMS.

- a. **Indemnification.** The Contractor shall indemnify, defend and save harmless the State, the Department, its officers, employees and agents, adjoining states, cities, towns, municipalities, public utilities, railroad or railway company, any fee owner from whom a temporary Right-of-Way was acquired for the Project, from any and all suits, actions, claims, liabilities, damages, losses, penalties, or costs of any character or nature brought on account of any injuries, death, or damages sustained by any person or property arising out of or from any cause whatsoever from the performance of the Work.

In addition to any remedy authorized by law, the State may withhold from monies due to the Contractor an amount deemed necessary by the Engineer to ensure the defense and indemnification obligations of this Section until disposition has been made of such suits or claims. The State reserves the right to pay any claimant and deduct monies from the Contract.

The contractor's responsibility for indemnity shall survive the termination of the Contract. Notwithstanding the foregoing, nothing contained herein shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved by the State.

- b. **Liability Insurance.** The Contractor shall procure and maintain at the Contractor's own expense, until final acceptance of Work, insurance coverage for damages assumed by Contract or imposed by law, of the kinds and in the amounts specified, with insurance companies authorized to do business in the State. The insurance shall cover all operations performed under the Contract, whether by the Contractor or by subcontractors. Before commencing the Work, the Contractor shall furnish certificates of insurance in the form satisfactory to the Department certifying that the policies will not be changed or canceled unless 30-days written notice has been given to the Department. The limits of the insurance are specified by law or under the terms of the Contract.

- 1. **Workers' Compensation Insurance.** Coverage shall be in accordance with prevailing laws.
- 2. **Liability and Property Damage Insurance.** Each policy shall name the Department as an additional insured and shall include a provision requiring the insurer to investigate and defend the Department against any and all claims for death, bodily injury, or property damages even if groundless. Coverages shall be in the following amounts:

- (a) Bodily injury liability:
 - \$500,000 each person.
 - \$1,000,000, each occurrence.

- (b) Property damage liability:
 - \$500,000 each occurrence.
 - \$1,000,000 aggregate.

c. Insurance Covering Special Hazards. Special hazards shall be covered by either riders to the liability and/or property damage policy or policies hereinabove specified, or by separate policies of insurance as follows:

1. Property Damage Liability arising out of the collapse of or structural injury to any building or structure due to:
 - (a) Excavation (including borrowing, filling, or backfilling in connection therewith), tunneling, pile driving, cofferdam work or caisson work; or
 - (b) Moving, shoring, underpinning, raising or demolition of any building or structure, or removal or rebuilding of any structural support thereof.
2. Property Damage Liability for injury to or destruction of property arising, directly or indirectly from blasting or explosions however caused, other than explosions of air or steam vessels, piping under pressure, prime movers, machinery, or power transmitting equipment.

107.15 THIRD PARTY BENEFICIARY CLAUSE. Anyone not a party to the Contract is not a third-party beneficiary and may not maintain any action for damages under the Contract.

107.16 PERSONAL LIABILITY OF STATE EMPLOYEES. The State's authorized representatives are acting solely as agents and representatives of the State when carrying out and exercising the power or authority granted to them under the Contract. There shall not be any liability either personally or as employees of the State. Notwithstanding the foregoing, nothing contained herein shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved by the State

107.17 NO WAIVER OF LEGAL RIGHTS. Final Acceptance does not preclude the State from correcting any measurement, estimate, or certificate made before or after completion of the Work. The State may recover from the Contractor, the Surety, or both, any overpayments by the State. A waiver on the part of the State of any breach of any part of the Contract is not a waiver of any other or subsequent breach.

The Contractor shall be liable to the State for latent or patent defects, fraud or such gross mistakes as may amount to fraud, and/or as regards the State's rights under any warranty or guaranty of the Work without prejudice to the terms of the Contract.

107.18 HAZARDOUS MATERIAL. If the Contractor encounters or exposes any abnormal condition which may indicate the presence of a hazardous material or toxic waste, it shall immediately suspend Work in the area and notify the Engineer in writing. The Contractor's operation in this area shall not resume until directed by the Engineer. However, the Contractor shall continue working in other areas of the Project, unless otherwise directed by the Engineer.

- a. Abnormal conditions shall include, but not be limited to, barrels; tanks; discolored earth; obnoxious odors; obnoxious or discolored liquids; excessively hot earth; smoke; or any other

condition which could indicate the presence of hazardous material or toxic waste.

- b.** The Contractor shall comply with all Federal and State laws, local laws, ordinances, rules, regulations, and orders for the disposition of the hazardous material or toxic waste. Any requests for compensation or claims shall be submitted in accordance with the Contract.

107.19 CIVIL RIGHTS. The Contractor shall comply with Federal, State and local laws, rules and regulations, including but not limited to Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d – 2000d4 (the Act) and 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (the Regulations), as amended, which set forth unlawful employment practices including that of discrimination because of race, religion, color, sex or national origin, and which define actions required for Affirmative Action and Minority (Disadvantaged) Business programs.

SECTION 108

PROSECUTION AND PROGRESS

108.01 SUBLETTING OF CONTRACT. The Contractor shall not sublet, sell, transfer, assign, or otherwise dispose of the Contract or any portion thereof, or of its right, title, or interest therein, without written consent of the Engineer. The Contractor's work force shall perform at least 40 percent of the total Contract price excluding the total cost of specialty items listed in the Proposal, which may be subcontracted without regard to the 40 percent limitation. Specialty Items are defined in **Subsection 101.77**.

- a. No subcontracts, transfers, or assignments, of the Contract shall relieve the Contractor of liability under the Contract and Bonds. The Contractor must submit a copy of its written agreements with subcontractors, including lower tiered subcontractors, when requesting to sublet any Work under the Contract. No agreements between the Contractor and its subcontractors or vendors shall create third party relationships to the State.

108.02 PRE-CONSTRUCTION. Prior to commencement of any major work on the Project, a Pre-Construction Conference will be held to review the proposed project schedule and coordinate the Work of the Contractor, utilities, and Subcontractors as defined in **Subsection 101.61**. The Contractor shall be prepared to discuss in detail the proposed schedule; the plan for stormwater pollution prevention; and the Traffic Management Plan, particularly as these relate to coordination with schedules of the utilities and Subcontractors. In addition, the Contractor shall be prepared to provide details of the sources and delivery of materials.

The Department will issue a written Notice to Proceed for Construction operations within 14 calendar days after Contract Award.

108.03 PROSECUTION AND PROGRESS.

a. General Requirements.

1. Project Schedule Program. The Contractor shall develop and maintain an integrated schedule management and controls program through Completion of all Projects. The Contractor shall initiate the Schedule Development process upon its receipt of the Apparent Low Bidder letter. The Special Provisions of the Contract will identify the applicable schedule requirements, according to the following levels:
 - (a) Schedule Level A: Projects with a high level of complexity, impact to the motoring public or community, and/or larger size Projects.
 - (b) Schedule Level B: Projects of average to moderate complexity, moderate impact to the motoring public or community, and/or average size.
 - (c) Schedule Level C: Smaller Projects with minimal to no complexity, and minimal impact to the community. Examples include Projects such as resurfacing, maintenance, and landscaping.

2. The Contractor's Schedule is the primary tool for the Contractor to organize and communicate its plan for the timely completion of the Project. The Contractor's Schedule shall include all Contract requirements, including Work performed by the State, Contractor, subcontractors, vendors, suppliers, utilities, regulatory agencies, and any other third party. The Contractor's Schedule is used to identify the Critical Path and near critical activities, assess progress, perform contemporaneous delay analyses, project time and resources required for tasks, and identify opportunities for mitigation, if necessary.
3. If the Contractor fails to provide an acceptable Project Baseline Schedule and Project Schedule Update in accordance with the requirements of the Contract, the Contractor shall be responsible for all delays and resulting costs to the Project.
4. The Department may withhold progress payments if the Contractor fails to submit required Schedule Submissions, including, but not limited to Schedule Development, Schedule Updates, and Recovery Schedule Submissions.
5. Software. The software used to generate the Critical Path Method (CPM) Schedule shall be capable of producing schedules in accordance with the requirements of the Contract Documents and fully compatible with software utilized by the Engineer. Primavera Project Planner (P6 Professional Latest Release) or approved equivalent.

b. Schedule Development.

1. Schedule Development Submittals. Scheduling and Schedule Submittals requirements shall be based on the defined schedule level. The Schedule Development process shall commence on the date that the Apparent Low Bidder letter is transmitted to the Contractor, which will be deemed Day 0 (zero) for all Schedule Submittals.
2. Meetings will be held as deemed necessary by the Department, to facilitate the Schedule Development Process. Each Submission shall incorporate the comments from the previous Submission(s). If any Schedule Development Submission does not conform to the Contract, the Contractor shall revise and resubmit prior to proceeding to the next step. Each Submission shall include electronic files in their corresponding format and in .pdf format.

The table below details the required Submissions and their corresponding Submission due dates for each schedule level.

STEP	STEP DESCRIPTION*	SCHEDULE LEVEL			RIDOT REVIEW DEADLINE (After receipt of submission)
		A	B	C	
Step 1	Scheduler's Resume	Day 3	-	-	3 days
Step 2	Initial Schedule Framework	Day 7	-	-	4 days
Step 3	Complete Schedule Framework	Day 14	Day 14	-	5 days
Step 4	Preliminary Schedule	Day 28	Day 28	Day 28	7 days
Step 5	Baseline Schedule-Activities and Logic	Day 42	Day 42	Day 42	7 days
Step 6	Baseline Schedule-Bid Item Loaded	Day 70**	Day 70**	Day 70**	7 days
Step 7	Baseline Schedule-Resource-Loaded Schedule	Day 84	-	-	7 days
Step 8	Project Baseline Schedule- Finalized	Day 98	Day 98	Day 98	7 days
All days are Calendar Days					

* Refer to Section 4 for Technical Scheduling Requirements; refer to the Special Provisions for Project specific information, including Project Groups, ID Standards, Milestones and Activity Data.

** Required by Day 70 but no earlier than 10 Days after NTP.

3. The requirements for each Schedule Development Submission are listed below:

- (a) **Step 1: Scheduler's Resume:** The Contractor shall retain a scheduler(s) dedicated full- time to the Project, with a minimum of three (3) years' experience on Projects similar in size and scope. The scheduler shall be responsible for developing, updating, and maintaining the Schedule. The Contractor shall submit the resume of the proposed scheduler(s) to the Engineer within 3 days of the Department transmitting the "Apparent Low Bidder" Letter. The Engineer may impose additional conditions based upon qualifications submitted. The scheduler shall be present at all required meetings, including but not limited to the Schedule Development, Schedule Update, and any other meetings which may affect the Project's Schedule.

(b) Step 2: Initial Schedule Framework:

- (1) Work Breakdown Structure (WBS).
- (2) Activity Codes: All Contractor defined activity code values.
- (3) Calendars: All Contractor defined calendars.
- (4) Contractor's Submittal List (including all required Contractor Submittals).
- (5) Potential VECP, when not otherwise prohibited in the Contract, or alternate sequencing/methods.

(c) Step 3: Complete Schedule Framework:

- (1) All requirements of Step 2 with prior comments addressed.
- (2) Activity Data for all Milestones, Submittals, Procurement and Work by Others. Data includes:
 - A. Activity ID;
 - B. WBS ID;
 - C. Responsibility Code;
 - D. Activity Type; and
 - E. Calendar IDs.
- (3) Resource Definitions (Level A Only): labor resources, work types, and equipment resources detailed by crews, incorporating all Engineer comments to date.

(d) Step 4: Preliminary Schedule:

- (1) All requirements of Step 3 with prior comments addressed.
- (2) Activity Data, including all logic, for all Work required to be performed within the first 120 days after the NTP.
- (3) All Work after the first 120 days from NTP shall be shown in summary activities (summary activities shall not have durations greater than 60 days).
- (4) Narrative explaining the sequence of the Work and all critical Submittals and activities.

(e) Step 5: Baseline Schedule - Activities and Logic:

- (1) All requirements of Step 4 with prior comments addressed.
- (2) Completed Schedule showing all Work activities and logic for the complete Contract.
- (3) Narrative Report.

(f) Step 6: Baseline Schedule - Bid Item Loaded:

- (1) All requirements of Step 5 with prior comments addressed.
- (2) Complete Bid Item Loaded Schedule.
- (3) Schedule Narrative which shall explain the use of resources and an

explanation of all logic changes since the Baseline Schedule Submittal.

(g) Step 7: Baseline Schedule - Resource Loaded Schedule (Level A Only):

- (1) All requirements of Step 6 with prior comments addressed.
- (2) Resource loading completed for all activities in the Schedule for the entire Project.
- (3) Project Schedule Narrative which shall explain the use of resources and an explanation of all logic changes made since the Baseline Schedule Submittal.

(h) Step 8: Project Baseline Schedule:

- (1) The Contractor shall incorporate and integrate all comments from the previous Steps into the Project Baseline Schedule to conform to the Plans and Specifications.
- (2) The Project Baseline Schedule shall be revised and resubmitted until approved by the Engineer. The Contractor shall not change the Project Baseline Schedule after approval by the Engineer.

c. Project Schedule Updates.

1. Project Update Meetings shall be held (every two weeks for level A and once a month for level B and C) from Notice to Proceed to the completion of the Project. The Contractor is required to attend each meeting with all updated information (data as of the data date) compiled in advance.
2. The Contractor shall furnish a complete and accurate report of the current progress, a printed Critical Path report, a report of the days gained or lost relative to the Substantial Completion date and any other completion dates along with detailed explanation, and a depiction of how future Work plans shall meet the Contract completion dates. Failure to attend meetings or submit schedule updates may result in withheld Progress Payments. At each meeting, the Contractor shall provide sufficient copies of the updated schedules and documentation in the format acceptable by the Engineer.
3. The Contractor shall submit an electronic copy of the Schedule Update Submittals on the scheduled Project Update Meeting date or no later than two (2) working days after the Project Update Meeting. Updates shall be submitted even in the absence of a Project Update Meeting at the same frequency. The Engineer has five (5) working days to review the Schedule Update Submittal. The Schedule Updates shall contain the following components:
 - (a) Schedule Update Narrative;
 - (b) Schedule Activity Report –Past Month and Remaining;
 - (c) Schedule Activity Report Longest Path (per completion date);
 - (d) Two week Look Ahead Schedule;

- (e) Predecessor/Successor Report;
- (f) Schedule Data File and;
- (g) Other reports as requested by the Engineer.

4. Additional Requirements for Schedule Level A Projects:

- (a) The Contractor is required to submit a Four Week Look Ahead Schedule rather than Two Week Look Ahead Schedule;
- (b) A monthly Resource Utilization Report.

5. All Schedule data, logic and duration changes, and any modifications to the Schedule shall be addressed, discussed, and documented with the Engineer at the Project Update Meeting. This shall be done prior to the Contractor submitting their finalized Schedule Updates. Failure to do so may result in rejected updates.

6. Changes to the accepted Baseline Schedule shall be detailed in the Schedule Update Narrative. The acceptance and inclusion of these changes will not be the sole basis of acceptance or entitlement to any time extension(s) or monetary compensation(s).

7. Schedule Update Submittals will not be used as the sole basis for any adjustment in the Contract Time(s), regardless of their acceptance by the Engineer. Any acceptance of the Schedule Update Submittal by the Engineer, either expressed or implied, will only apply to the issue of progress.

d. Schedule Requirements. The Department will provide the Contractor with templates during Schedule Development. The Schedules shall be developed and maintained in accordance with the following requirements:

1. **Schedule Narrative.** A description of the sequence of events summarizing the detailed Milestone Status, Critical Path, and all changes made to the Schedule, including Actual Dates, logic revisions, and Calendar and Duration changes. All Project Schedule Submissions shall include a Schedule Narrative as follows:

(a) Preliminary Schedule Narrative: The Preliminary Schedule Narrative shall:

- (1) Identify the data date and schedule file name.
- (2) Describe the planned flow of work, including details of all key or driving activities/resources for the first 120 calendar days and summarize Project activities thereafter. Summary activities shall not be greater than 60 calendar days in duration.
- (3) Identify all proposed alternative methods and product substitutions.
- (4) Include responses to all Engineer's comments and identify and explain all changes made to the Schedule Submission.
- (5) Identify key constraints and potential problems affecting the Contractor's Work.
- (6) For Schedule Level A Projects, the Preliminary Schedule Narrative shall

include:

A. A detailed summary of planned labor utilization for the Project for the first 120 calendar days, including the average and maximum number of workers by craft designation on site each month, the shifts to be worked and actual and potential labor resource limitations.

B. A detailed summary of planned operated equipment utilization for the first 120 calendar days, including each type of operated equipment, the quantity each month, the criteria for mobilizing and demobilizing to and from the site and actual and potential resource limitations.

(b) Baseline Schedule Narrative: The Baseline Schedule Narrative shall:

- (1) Identify the data date and schedule file name.
- (2) Describe the planned flow of Work identifying all key or driving resources.
- (3) Identify all proposed alternative methods and product substitutions.
- (4) Include responses to all Engineer's comments and identify and explain all changes made to the Schedule Submission.
- (5) Explain treatment of normal adverse weather in the Baseline Schedule, including all activities that contain contingency days for adverse weather. Lack of preparation for normal adverse weather is unacceptable.
- (6) Identify key constraints and potential problems affecting the Contractor's Work.
- (7) For Schedule Level A Projects, the Baseline Schedule Narrative shall:
 - A. Summarize planned labor utilization for the Project, including the average and maximum number of workers by craft designation on site each month, the shifts to be worked and actual and potential labor resource limitations.
 - B. Summarize planned operated equipment utilization, including each type of operated equipment, the quantity each month, the criteria for mobilizing and demobilizing to and from the site and actual and potential resource limitations.
 - C. Identify resolutions to constraints and potential problems, such as interface with plant operations, coordination with third parties, temporary Contractor facilities or fixed equipment planned for use.

(c) Schedule Update Narrative: The Schedule Update Narrative shall:

- (1) Identify the Update Period, the data date, and the schedule file name.
- (2) Detail the Work accomplished in the past two weeks and Work planned for the next two weeks.
- (3) Identify and explain why any planned Work was not accomplished and how it affects the Project.

- (4) Describe the activities driving the current critical path to each Milestone or Phase Completion Work.
- (5) Identify all proposed alternative methods and product substitutions.
- (6) Include responses to all Engineer's comments and identify and explain all changes made to the Schedule Submission.
- (7) Identify any proposed elective changes, including the activities and logic changed, a description of the scope of the elective change, its effect on the Project, driving resources and key constraints.
- (8) For Schedule Level A Projects, the Update Narrative shall:
 - A. Identification of all activities with critical or near critical float (within ten (10) Working Days of the Critical Path) that were planned to occur during the Update Period, but did not occur or occurred later than the scheduled late start or late finish date, and an explanation of these delays. Identification of delays to activities taking place off the Project site, e.g., Submittal preparation, fabrication, and delivery activities.
 - B. Provide a listing of all activities which have surpassed their planned duration by more than twenty (20) percent and justification for maintaining original planned durations for future activities of like work.
 - C. A summary of changed plans for labor utilization for the Project, identifying the average and maximum number of workers on site each month. Identify actual and potential labor resource limitations. A summary of the actual labor utilization used over the past month.
 - D. A summary of changed plans for equipment utilization for the Project, identifying each type of operated equipment to be used on the Work, the planned quantity of each type of operated equipment utilized each month, and all changes to the criteria for mobilizing and demobilizing each piece of equipment to and from the site. Identify actual and potential equipment resource problems. A summary of the actual equipment utilized over the past month.

2. **CPM Schedule.** All CPM Schedules shall utilize a Work-Breakdown Structure (WBS) developed by the Contractor. The WBS shall be used as the primary code for displaying and organizing the graphical output schedules utilized for the Project, unless otherwise directed by the Engineer. Title case shall be used for WBS and Activity descriptions. The following is the basic dictionary for the WBS.

(a) Basic Structure for WBS:

- (1) XX.00 Contract Name
- (2) XX.10 Milestones
- (3) XX.15 Summary Activities
- (4) XX.20 Request for Information
- (5) XX.30 Procurement/Shop Drawings

- (6) XX.40 Utility/RR & Work by Others
- (7) XX.60 Construction
- (8) XX are Contract specific, alpha-numeric characters that will be defined by the Engineer.

(b) Project Naming Standards:

- (1) Preliminary Project Schedule: PS00 (2) Baseline Schedule: BL00
- (2) Bi-Weekly Project Schedules: UPxx
- (3) Recovery Schedule: Rxxx

(c) Project Milestones, Interim Completion Dates and Phase Completion Dates:

The Contractor shall include Milestones, Interim Completion Dates, and/or Phase Completion Dates, if specified in the Contract. Late Finish Constraints shall be assigned to these dates.

(d) Activity Code: The CPM Schedules shall contain activity code classifications and code values. The Contractor shall propose a coding structure for the Engineer's review and acceptance. The activity code structure combined with the activity identification number shall provide the capability to organize information by location, road or ramp, structure, work type, subcontractor, discipline, etc., as deemed necessary by the Engineer. The Contractor shall reserve three (3) code classifications (fields) and a minimum of six (6) characters for the Engineer's use. RESP code shall be utilized for identification of responsible party. RESP values shall be discussed at the Schedule Development Meetings.

(e) Activity Description: An activity description shall consist of a work function, construction element and specific location of Work. No two activities will have the same description. Non-specific terminology shall not be used in the activity's description. Any abbreviations used in the activity descriptions shall be defined in the Schedule Narrative Report. The activity description shall be left-justified and in title case.

(f) Activity Durations: The CPM Schedule shall incorporate a minimal number of activities with durations less than two (2) working days and more than twelve (12) working days. The Contractor may request approval from the Engineer to assign durations greater than twelve (12) working days. The justification for such request shall be fully detailed in the Preliminary and Baseline Schedule Narratives.

(g) Activity Type: The following activities or events are required in the Schedule:

- (1) Milestones: The Contractor shall only use this Activity Type for Milestones, Interim Completion Dates and Phased Completion Dates as specified in the Contract.
- (2) Summary (Hammock and Level of Effort Activities) Schedule Activities: The Contractor shall maintain a Summary Activity schedule. These Summary Activities shall remain in all Schedule Submittals. The predecessor and successor activities of the

Summary Activities may be modified to include all those activities that are entered the Schedule and considered part of the respective Summary Activity's scope of work.

- (3) **Task Activities:** This is the primary activity type. All activities other than Milestone and Summary as defined above shall be Task Activities.

(h) Activity Dates: Activity Early and Late Start and Finish dates shall be calculated for each activity based upon the schedule data date, actual dates, schedule logic, schedule constraints, calendars, and original duration or remaining duration in accordance with the scheduling parameters defined in this section. The Contractor shall provide actual start and finish dates to the Engineer for approval. In the event of a disagreement, the Engineer will assign the dates to be used for the activities at issue.

(i) Activity Bid Item Loading: All bid items listed in the proposal pages shall be assigned to its corresponding schedule activity or distributed to a group of activities using Primavera's resources dictionary and resource assignment. The total value and quantities of the activities allocated to each bid item shall equal the total value and quantities of the corresponding bid item listed in the proposal.

(j) Calendars: The Contractor shall include the below referenced calendars in the Schedule or may request approval from the Engineer to create additional calendars. It is the responsibility of the Contractor to schedule the Work in accordance with the Contract. The Contractor shall not schedule Work during winter shutdown or any other contract shutdown period unless permitted by Contract or as permitted by the Engineer. If work during the winter shutdown period is approved by the Engineer, the Department will not consider delays during this period eligible for a time extension.

The following calendars are:

- (1) Calendar 1 - 5-day workweek (includes Holidays and Winter Shutdown);
- (2) Calendar 2 – Procurement;
- (3) Calendar 3 - 6-day workweek (includes Holidays and Winter Shutdown);
- (4) Calendar 4 - 7-day workweek (includes Holidays and Winter Shutdown);
- (5) Calendar 5 - 5-day workweek (includes Holidays and No Winter Shutdown);
- (6) Calendar 6 - 6-day workweek (includes Holidays and No Winter Shutdown);
- (7) Calendar 7 - 7-day workweek (includes Holidays and No Winter Shutdown);
- (8) Calendar 8 - Interstate 5-day workweek (includes Holidays & Winter Shutdown);
- (9) Calendar 9 - Interstate 6-day workweek (includes Holidays & Winter Shutdown);

- Shutdown);
- (10) Calendar A – Seeding;
- (11) Calendar B - Wetland Seeding;
- (12) Calendar C - Plants B&B.

(k) Data Date: The following are the definitions of the data dates for the CPM Schedules:

- (1) Preliminary CPM Schedule – Date of Bid Opening;
- (2) Baseline CPM Schedule – Date of Bid Opening;
- (3) Project Schedule Updates – TBD at Schedule Development Meeting.

(l) Logic: The logic in the Schedules shall represent the progression of time and the sequence of Work performed within the Contract Time(s). The CPM Schedules shall conform to the following requirements:

- (1) Every activity shall have assigned predecessors and successors. Unless otherwise specified, “Bid Opening” shall be the only activity without a predecessor; “Substantial Completion” and each Milestone or Phase Completion shall be the only activities without successors.
- (2) Activity constraints are limited to the use of “Start-No-Earlier-Than” and “Finish- No-Later-Than” for access restraints and Contract Milestone(s) or Phase(s). The Contractor shall request approval from the Engineer to use these constraints for other activities prior to their incorporation in the CPM Schedule. The use of “Zero Free Float”, “Start On”, “Expected Finish”, “Mandatory Start” or “Mandatory Finish” is prohibited.
- (3) Activity lag durations shall not have a negative value unless approved by the Engineer. Activity lags shall not be used in lieu of logic relationships.
- (4) Redundant ties to preceding activities in a sequential series of activities are not allowed. A tie representing a different constraint will not be considered redundant.

(m) Schedule Layout Requirements: The Engineer will provide the Contractor with the required layouts and templates for the Schedule.

(n) Schedule Calculations: Performing scheduling calculations requires the following settings:

- (1) Turn off automatic scheduling and leveling.
- (2) When scheduling activities, apply retained logic.
- (3) Calculate the start-to-start lag from early start.
- (4) Schedule durations as contiguous.
- (5) Show open ends as non-critical.
- (6) Calculate total float as finish float.
- (7) Summary calculations shall use Calendar No. 1 and the weighting factor for determining percent complete shall be duration.

- (8) Set the auto-inserting option on automatic with a minimum increment of three (3).
 - (9) Initially set critical activities using defined critical as total float less than one (1). This setting may be changed at the direction of the Engineer.
 - (10) Set language for output as U.S. English.
- (o) **Submittals and Procurement:** The Schedule shall include activities for all items within the Contractor's Submittal List (CSL). Each submittal item shall have an activity for submittal preparation, review, fabrication, and delivery. The Contractor is responsible for the accuracy and completeness of its schedule activities. All delays and/or inaccuracies related to submittals and procurement are the responsibility of the Contractor.
- e. **Review and Acceptance of Project Schedule Submittals.** The Engineer will review Schedule Submittals for conformance with the requirements of the Contract Documents. The planning, scheduling, and execution of the Work and the accuracy of any Project Schedule is the responsibility of the Contractor. The Contractor remains responsible for errors in any previously accepted Project Schedule, including but not limited to omitted activities, activity durations, relationships between activities, resource allocation, or any float suppression techniques. The Engineer may direct the Contractor to address and adjust schedules that do not accurately reflect the Work at any time, with no additional cost to the State. Acceptance of any Project Schedule does not relieve the Contractor of any responsibility for the completion of the work in conformance with all Contract requirements.
- f. **Progress Delays.**
- 1. **Recovery Schedules.**
 - (a) The Contractor shall identify all schedule and progress delays during the prosecution of the Work. Whenever the Project Schedule Update indicates late critical path progress by 20% or more in Contract Time, or at the Engineer's request, the Contractor shall develop and submit a Recovery Schedule in the form of a proposed Baseline Schedule Revision.
 - (b) The Contractor is not relieved from the submission of Project Schedule Updates during the development of a Recovery Schedule.
 - (c) The Recovery Schedule shall illustrate a clear process and procedure for eliminating or mitigating said delays to the Contract Time(s). The Recovery Schedule shall be submitted within thirty (30) calendar days of the corresponding Project Schedule Update and is subject to approval by the Engineer.
 - 2. **Non-Excusable Delays:** The development and submission of the Recovery Schedule shall be at no additional cost to the State.
 - 3. **Excusable Delays:** The State may reimburse the Contractor for the costs of the development of the Recovery Schedule.
 - 4. The Engineer may withhold progress payments, either in whole, or in part if the

Contractor fails to submit a Recovery Schedule.

g. Baseline Schedule Revisions.

1. Project Baseline Schedule Revisions shall conform to all requirements for approval of the Project Baseline Schedule and associated updates, including but not limited to inclusion of added or deleted activities, changes to logic or relationships, and a distribution of costs for the added Work or changes.
2. The Engineer will review and comment on this revision within 14 calendar days of its submission.
3. The final draft of the proposed Baseline Schedule Revision shall incorporate all approved changes and be submitted for acceptance within 5 calendar days following the Engineer's approval.
4. The approved Baseline Schedule Revision shall be referred to as "Baseline Schedule of Record – rev #" in subsequent Project Schedule Update submittals.
5. A Baseline Schedule Revision is required whenever there is a change to the Baseline Schedule of Record or its corresponding Project Schedule Update, and whenever a Progress Delay threshold is triggered.

108.04 LIMITATION OF OPERATIONS. The Contractor shall limit its operations to prevent unnecessary inconvenience to the traveling public. If the Engineer concludes that the extent of the Contractor's Work unnecessarily inconveniences the public or concludes limiting operations are necessary to protect the existing or new construction from damage, the Engineer will require the Contractor to finish portions of Work in progress before starting new Work.

108.05 CHARACTER OF WORKERS. Any person employed by the Contractor or by any subcontractor who does not perform the Work in a proper and skillful manner or is intemperate, disorderly, or creating a hostile work environment shall, at the written direction of the Engineer, be removed from the Project immediately by the Contractor or subcontractor employing such person, and shall not be employed again on any RIDOT projects without the prior written approval of the Engineer.

Should the Contractor fail to remove such person or persons as directed above, the Engineer may withhold progress payments from the Contractor and suspend the Work until such person or persons are removed. The Contractor will not be entitled to additional time or costs in these cases.

108.06 EQUIPMENT, MEANS AND METHODS. The Contractor shall use suitable equipment of sufficient size and mechanical condition to complete the Project in accordance with the Contract. The Contractor is responsible to ensure that the equipment does not harm the roadway, adjacent property, other highways, workers, or the public. The Engineer may order the removal and replacement of any equipment deemed unsuitable with no additional time or costs to the State.

The Contractor is responsible for its means and methods to safely accomplish the work in conformity with the requirements of the Contract. The Contractor shall remain fully responsible for producing all work in conformity with the Contract. The Contractor is not entitled to a time extension or compensation for an approved change in means and methods.

108.07 DETERMINATION AND EXTENSION OF CONTRACT TIME. If completion of the Work requires additional time, a written time extension request may be made, in accordance with the requirements of **Subsections 104.02** and **108.03** for an Extension of Contract Time. A claim that insufficient time was specified in the Contract is not a valid reason for extension of time.

The State will not evaluate a request for extension of the Contract Time unless the Contractor notifies the Engineer as specified in **Subsection 104.02**.

The Department shall have no liability for any constructive acceleration of the Work, nor shall the Contractor have any right to make any Claim for constructive acceleration nor include it as an element of any claim the Contractor may otherwise submit under this Contract. If the Engineer gives express written direction for the Contractor to accelerate its efforts, such written direction will set forth the prices and other pertinent information and will be executed by a written Contract Amendment.

a. Requirements for an Extension of Contract Time Request. The Contractor shall submit an Extension of Contract Time Request that includes a narrative, approved project schedules, copies of all supporting documentation, and related correspondence in one complete package.

1. The narrative shall include the following:

(a) A certification by the Contractor that it performed the Work in accordance with the Project Schedule Baseline and that the Request for Extension of Contract Time results from unforeseeable delays that were not the Contractor's responsibility. Information to be contained in the narrative includes the identification, description, and documentation of each delay, including the circumstances resulting in the delay, the responsible parties for the delay and the date of delay notification to the State. The Contractor shall calculate and submit the number of calendar days that each delay impacted each Contract date.

(b) Identification, description, and documentation of each mitigation action, including actions taken by each party to mitigate delays, the dates of such actions, and the calculation of calendar days which were gained or mitigated by such actions.

2. Approved Project schedules shall be included in an Extension of Contract Time Request. Engineer Approved Schedules shall be referenced as is; schedules either Approved as Noted, Not Approved, or Rejected shall be corrected before use in the Extension of Contract Time Request. The number of days requested must be supported in the Project schedules.

3. All Project documentation and correspondence which substantiates any delays or mitigation detailed in the narrative shall be included in the Extension of Contract Time Request.
4. Contractor's Extension of Contract Time Request.

(a) The Contractor shall use a Contemporaneous Analysis when evaluating delays to:

- (1) Identify the accepted Project Schedule Update that occurs immediately before the start of the delay being evaluated.
- (2) Identify each Project Schedule Update in effect during the delay and the Project Schedule Update with a data date that immediately follows the conclusion of the delay.
- (3) Identify the critical path each day from immediately before the start of the delay to the Project Schedule Update to immediately following the delay.
- (4) Determine whether the delay falls on the critical path. If the delay falls on the critical path, the time extension due, if any, will be based upon the number of days the critical path is delayed. If the delay does not fall on the critical path, then no Project delay occurred and no time extension is due.
- (5) The Engineer will review the Contractor's evaluations and calculations and determine the time extension due, if any.
- (6) Notification. The Contractor shall be responsible for notifying the Resident Engineer in accordance with **Subsections 104.02 and 108.03** of any Department action or omission which the Contractor believes has delayed or may delay the project. Such notification shall be a precondition to consideration of an Extension of Contract Time Request.

b. Types of Delays.

1. Excusable, Non-Compensable Delays. Excusable, non-compensable delays are unforeseeable delays that are neither the Contractor's nor the Department's responsibility. The following events are excusable, non-compensable delays:
 - (a)** Delays due to Acts of Nature, such as earthquake, lightning strikes, tidal wave, tornado, hurricane, or other cataclysmic phenomenon of nature.
 - (b)** Delays due to weather if the Contractor is entitled to a time extension for weather as specified in **Subsection 108.07(b)(4)**.
 - (c)** Extraordinary delays in material deliveries the Contractor or its suppliers cannot foresee or avoid resulting only from freight embargoes, government acts, or nationwide material shortages.
 - (d)** Delays due to civil disturbances or acts of the public enemy.

- (e) Delays due to labor strikes that are beyond the Contractor's, subcontractor's, or supplier's power to settle and are not caused by unlawful acts or omissions of the Contractor, subcontractor, or supplier.
 - (f) Delays due to acts of the government or a political subdivision other than the Department.
 - (g) Delays due to utility or railroad interference on the Project.
- 2. Excusable, Compensable Delays. Excusable, compensable delays are unforeseeable delays that are the Department's responsibility. The following events are excusable, compensable delays:
 - (a) Delays due to revised Work as specified in **Subsections 104.03, 104.05, and 104.07.**
 - (b) Delays due to an Engineer-ordered suspension as specified in **Subsection 104.06.**
 - (c) Delays due to the Department's failure to act in accordance with the Contract.
- 3. Non-Excusable Delays. Non-excusable delays are delays that are the Contractor's responsibility. All non-excusable delays are non-compensable. Non-excusable delays include, but are not limited to the following events:
 - (a) Delays due to the Contractor's, subcontractor's, or supplier's insolvency or mismanagement.
 - (b) Delays due to delivery of materials.
 - (c) Delays due to the Contractor's failure to provide sufficient forces and equipment.
 - (d) Delays caused by plant and equipment failure.
- 4. Weather Delays. The Contractor shall anticipate the number of days lost per month for weather sensitive activities in accordance with Table 108.07-1 below. The Department will extend Contract Time for weather if the Contractor cannot perform work on the critical path due to weather and the cumulative delay due to weather each month exceeds the number of days specified in Table 108.07-1. Work on the critical path is considered delayed if the Contractor is prevented from proceeding on such activity for at least 60 percent of the total daily time planned for the activity for all shifts scheduled for that day. Submit daily documentation, as specified in **Subsection 105.18** for activities that are delayed by weather.

Table 108.07-1 Anticipated Number of Days Lost per Month for Weather Sensitive Activities

Month	Number of Days Lost
January	31 ¹
February	28 ^{1,2}
March	20
April	15
May	10
June	10
July	10
August	10
September	10
October	15
November	15
December	20

¹ For concrete placement Items, as specified in Section 800, other than approach slabs, the number of days restricted is 20 days.

² For leap years, the number of days restricted is 29.

The number of days will be adjusted based on the Transportation Management Plan. For example, if the TMP only allows the contractor to work 5 days per week, the days lost column will be adjusted by 5/7ths and applied to the actual work days permitted by the TMP.

5. Concurrent Delays. Concurrent delays occur when both parties are responsible for the same period of delay. When a non-excusable delay is concurrent with an excusable delay, the Contractor is entitled to a non-compensable extension of time for the period of the excusable delay.

108.08 FAILURE TO COMPLETE ON TIME.

- a. **Final Completion.** For each day, including work days, Saturdays, Sundays, and Holidays, that any work shall remain uncompleted after the time established for completion of the work in **Subsection 105.17(f)**, the applicable Daily Charge specified below, will be deducted from any money due the Contractor, not as a penalty, but as liquidated damages. An adjustment of the contract time for completion of the work granted under the provisions of **Subsection 108.07** hereto will be considered in the assessment of liquidated damages.

Permitting the Contractor to continue and finish the work, or any part of it, after the contract time or any extensions thereof, has passed will not waive the Department's rights under the Contract. Unless otherwise specified, liquidated damages will not accrue during the winter shutdown period, i.e., December 15th through the following April 15th.

Rates for liquidated damages will be established in accordance with the Schedule. When the contract time is either the calendar day or fixed calendar day basis, the schedule for calendar days shall be used. When the contract time is on a work day basis, the schedule for work days will be used.

Schedule of Liquidated Damages

Original Contract Amount		Daily Charge	
From More Than	To and Including	Calendar Day or Fixed Date	Work Day
\$ 0	\$ 25,000	\$200.00	\$300.00
25,000	50,000	350.00	500.00
50,000	100,000	450.00	600.00
100,000	500,000	900.00	1200.00
500,000	1,000,000	1200.00	1700.00
1,000,000	2,000,000	1500.00	2050.00
2,000,000	6,000,000	1950.00	2700.00
6,000,000	10,000,000*	2350.00	3250.00

*Projects over \$10,000,000 will have Liquidated Damages assigned in the Job Specific Specifications.

108.09 DEFAULT OF CONTRACT. The State may declare the Contractor in default for one or more of the following:

- a. Failure to commence the Work in accordance with the Notice to Proceed,
- b. Failure to perform the Work with sufficient workers and equipment or with sufficient materials to assure the prompt completion of said Work within the Contract Time,
- c. Failure to perform the Work in accordance with the Contract requirements and/or refuses to remove and replace rejected materials or unacceptable Work,
- d. Discontinues the prosecution of the Work,
- e. Failure to resume Work suspended by the Engineer or discontinued by the Contractor within the time ordered by the Engineer,
- f. Insolvency, bankruptcy, or receivership,
- g. Makes an assignment of the Contract for the benefit of creditors,
- h. Fails to comply with Contract requirements regarding minimum wage payments or EEO requirements,
- i. Unlawful acts or omissions.

The State will provide written notice to the Contractor and the Surety of a default (Notice of Default). The written Notice of Default will include a notice to cure and will establish a date by which the cure must be completed. The State may allow more time to cure than originally stated in the Notice to Default if the State deems it to be in its best interest. Failure to cure the delay, neglect, or default within the time specified in the Notice of Default authorizes the State to terminate the contract. In such case, the State will provide the Contractor and the Surety with a written Notice of Termination.

After a Notice of Termination is issued, the State may take over the Work without further notice; may complete it by itself, by contract or otherwise; and may take possession of and use materials, appliances, equipment, or plant on the work site necessary for completing the Work. The State may transfer the obligation to perform the Work from the Contractor to the Surety. In that event, the Surety shall submit its plan for completion of the Work, including any contracts or agreements with third parties for completion, to the Department for approval before beginning work.

The Surety must follow the Contract requirements for approval of subcontracts, except that the limitation on percent of work subcontracted will not apply. On receipt of the transfer notice, the Surety shall take possession of all materials, tools, equipment, and appliances at the work site, employ an appropriate work force, and complete the Contract work as specified. The Contract specifications and requirements shall remain in effect, except that the State will make subsequent Contract payments to the Surety or other entity as required.

The Contractor and the Contractor's Surety are jointly and severally liable for any damage to the State resulting from the Contractor's delay, neglect, or default, whether or not the State terminates the Contractor's right to prosecute the work. The State's damages include any increased costs incurred by the State in completing the work or paying for the work to be completed. The State will not relieve the contractor and the contractor's surety of the liability for the assessment of liquidated damages because of the contractor's default. All additional costs incurred by the State due to the default will be deducted from any monies due or to become due to the Contractor. If such costs exceed the sum which would have been payable under the Contract, then the Contractor and the Surety shall be liable for the balance of such costs. The State's rights and remedies are in addition to any other rights and remedies provided by law or under the Contract.

If after notice of termination of the Contractor's right to proceed under this clause, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties will be determined as if the termination had been issued for the convenience of the State in accordance with **Subsection 108.10**. Thus, damages to which the Contractor may be entitled due to the improper default termination will be limited to appropriate amounts for the items listed in **Subsection 108.10**.

108.10 TERMINATION OF CONTRACT.

a. Reasons for Termination. The State may terminate the Contract at any time due to any of the following:

1. Executive Orders of the President of the United States or the Governor of the State of Rhode Island with respect to the prosecution of war or the interest of national defense,

- or any disaster declaration.
2. Restraining orders or injunctions by a court of competent jurisdiction affecting prosecution of the Work based on acts or omissions of persons or agencies other than the Contractor.
 3. Any reason determined by the Engineer to be in the best interest of the State.
 4. Any circumstance that precludes the orderly prosecution or completion of the Contract.

The Engineer will issue a written Notice of Termination to the Contractor, which shall include the effective date of the termination and for which of the above-listed reasons the Contract is terminated.

b. Required Actions. Unless otherwise directed by the Engineer, upon receipt of a Notice of Termination the Contractor shall immediately:

1. Stop work as directed in the Notice.
2. Place no further orders or subcontracts for materials, services, or facilities except as approved to complete work not terminated.
3. Terminate all orders and subcontracts for the terminated work.
4. Accomplish either **(a)** or **(b)** below as directed by the Engineer:
 - (a)** Assign to the Department all right, title and interest in any terminated orders or subcontracts. The Engineer will settle all claims on the terminated orders or subcontracts.
 - (b)** Settle any outstanding liabilities and claims arising from termination of orders and subcontracts. Settlements must be limited to costs allowed under this Section.
5. Submit to the Engineer a list, certified as to quantity and quality, of all materials acquired or produced for incorporation into the project and that are properly allocable to the terminated portion of the project, exclusive of items disposed of under **Subsection 108.10(6)(b)**, below.
6. Dispose of materials in the Contractor's possession or control that were acquired or produced but not incorporated into the Project as of the termination date, and as directed by the Engineer under either **(a)** or **(b)** below:
 - (a)** Transfer title and deliver the materials to the Department. The Department will pay for the materials at the actual cost delivered to the project or storage site, including transportation charges, to which cost 15% will be added.
 - (b)** Sell the materials. Credit will not have to be extended to prospective purchasers. The Contractor may acquire the materials if the Engineer approves the sale price and the Contractor meets any other conditions prescribed by the Engineer. At the sole discretion of the State, the proceeds of any sale, transfer, or disposition of materials may be:
 - (1) Applied to reduce any payments to be made by the State under the Contract;
 - (2) Credited to the cost of the Work; or
 - (3) Paid in any other manner as directed.

7. Deliver to the State completed or partially completed plans, drawings, information, and other property required to be furnished under the Contract.
8. Take all necessary actions and comply with all directives to protect contract-related property in which the State has or may acquire an interest.
9. Complete Work not terminated.

The Contractor shall proceed immediately with performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable cost under this clause.

c. Claim. The Contractor shall submit its termination claim to the Engineer within 60 days after the effective date of termination.

1. Without duplication of any amount paid for under **Subsection 108.10(b)** above, the claim may be for the total of:
 - (a) Costs incurred in performing the terminated work from the date of Contract award to the effective date of the termination subject to **Subsection 108.10(c)(2)** regarding reimbursement of equipment costs and **Subsection 108.10(c)(3)** regarding unallowable items.
 - (b) Payments approved by the Engineer under **Subsection 108.10(b)(4)(b)** to settle the termination claims of suppliers and subcontractors to the extent not covered under **Subsection 108.10(c)(1)(a)**.
 - (c) Reasonably incurred costs for:
 - (1) Accounting, legal, clerical, and other costs reasonably necessary for preparation of the termination claim, excluding costs incurred after the submission of the claim to the State.
 - (2) Settling subcontractor and supplier claims, excluding the amounts of those settlements paid under Subsection 108.10(c)(1)(b).
 - (d) Extra Work performed because of the termination shall be paid in accordance with **Subsection 109.04**.
 - (e) At no time will loss of anticipated profits be allowed as part of any settlement.
2. Equipment claims will be reimbursed as follows:
 - (a) Idle time for equipment shall be paid in accordance with **Subsection 109.04**. Idle equipment time is limited to the actual period of time equipment is idle as a direct result of the termination, not to exceed 30 days. Operating expenses will not be included for payment of idle equipment time.
 - (b) Rented equipment, based on reasonable, actual rental costs in accordance with **Subsection 109.04**.
3. The following costs are not payable under a Contract termination:
 - (a) Loss of anticipated profits or consequential or compensatory damages.
 - (b) Unabsorbed home office overhead related to ongoing business operations.

(c) Bidding and project investigative costs.

(d) Costs of repairing equipment to render it operable for use on the terminated work.

d. Deductions. In arriving at the amount due under this Subsection, the Department will deduct:

1. All previous payments made before termination;
2. Any claim which the State may have against the Contractor;
3. The proceeds of the sale or transfer of any materials, supplies, or other items acquired for the terminated work and not otherwise recovered by or credited to the Department;
4. All partial payments made under this Section.

e. No Waiver of Rights. The termination of work by the State does not affect or extinguish any of the rights of the State against the Contractor or the Contractor's Surety then existing or which may thereafter accrue. Any retention or payment of monies by the State due under the terms of the Contract will not release the Contractor or the Contractor's Surety from the contractual obligations.

f. Retaining Records. The Contractor shall maintain and make available all Project cost records to the Department for audit. This includes all books and other evidence bearing on the Contractor's costs and expenses under this Contract. The Contractor shall make these records and documents available to the State, at the Contractor's office, at all reasonable times, without any charge.

SECTION 109**MEASUREMENT AND PAYMENT**

109.01 MEASUREMENT OF QUANTITIES. The State will measure or ascertain the quantities of Work and calculate payments based on the method of measurement and basis of payment provisions provided in these Specifications. When the following units of measure are specified, the State will measure or ascertain quantities as described below unless otherwise specified in the Contract.

- a. **Lump Sum.** Not measured. Describes payment as reimbursement for all resources necessary to complete the Work. When a complete structure or structural unit is specified as the unit of measurement, the unit will include all necessary fittings and accessories.
- b. **Each.** Measured by the number of individual items of Work completed.
- c. **Linear Foot.** Measured parallel to the longitudinal base or foundation upon which items are placed, or along the longitudinal surface of the item.
- d. **Vertical Linear Foot.** Measured vertically to the nearest 0.1 foot.
- e. **Square Yard or Square Foot.** Measured by a two-dimensional area method on the surface of the item.
- f. **Cubic Yard or Cubic Foot.** Measured by a three-dimensional volume method.
- g. **Acre.** Measured by a two-dimensional area method on the surface to the nearest 0.1 acre.
- h. **Pound.** Measured by actual item net weight avoirdupois (mass).
- i. **Ton.** The term "ton" means the short ton consisting of 2000 pounds avoirdupois. All materials shall be weighed on accurate and approved scales as approved by the Engineer. Trucks used to haul material shall be weighed prior to and after loading to determine net weight of the material transported. Each truck shall bear a plainly legible identification mark that corresponds to each weight slip.

For Work on a tonnage basis, submit freight bills for railroad shipments and certified weight-bills when materials are received by any other method, showing the actual tonnage used.

Costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house, and for all other items specified in this Subsection for weighing of highway and bridge construction materials for proportioning or payment are incidental to the pay items of the Project.

- j. **Gallon.** Measured by actual item liquid volume.
- k. **Board Feet.** Measure timber by Board Feet actually incorporated in the structure. Base the measurement on nominal widths, thicknesses, and the extreme length of each piece.
- l. **Standard Manufactured Items.** When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by size, unit weight, section dimensions, etc., such identification will be to nominal weights or dimensions set by the industry.

109.02 SCOPE OF PAYMENT. The State will pay the Contractor for the actual measured quantities of Work performed or for the materials furnished in accordance with the Contract. The Contractor shall accept the payment as full and complete compensation for (a) furnishing all equipment, materials, tools, and labor necessary to complete and maintain the Work, and for (b) all of the Contractor's risk, loss, damage, or expense of whatever character arising from or relating to the Work and performance of the Work, subject to **Subsection 107.16**.

109.03 COMPENSATION FOR ALTERED QUANTITIES. When accepted quantities of work or materials vary from the quantities stated in the bid schedule, the Contractor shall accept payment at the original Contract unit prices for the quantities of work and materials furnished. Payment at the Contract unit price shall compensate the Contractor for all costs, expenses, and profit that the Contractor is entitled to receive for the altered quantities, except as provided below:

- a. When the final quantity of a Major Contract Item varies more than 25 percent above or below the bid quantity, either party to the Contract may receive a cost adjustment in the Contract unit price of that item in accordance with **Subsection 109.04**. If the final quantity of work is:
 - 1. Greater than 125 percent of the bid quantity, the cost adjustment will be made only for those units that are in excess of 125 percent of the bid quantity.
 - 2. Less than 75 percent of the bid quantity, the cost adjustment will be made for those units of work done and accepted, except that the total payment for the item shall not exceed 100 percent of the total amount bid for the item.

No allowance shall be made for any increased expenses, loss of expected reimbursement, or loss of anticipated profits suffered or claimed, either directly from alterations in quantities or indirectly from unbalanced allocations among the contract items on the part of the bidder and subsequent loss of expected reimbursements, or any other causes.

109.04 COMPENSATION FOR CONTRACT REVISIONS

- a. **General.** If the Department revises the Contract as provided in **Subsection 104.02**, the Department will pay for the revision following the sequence specified in **Subsection 109.04(b), (c), & (d)**. Such payment will include compensation for performing the revised work, delay costs, and all other costs not expressly precluded by **Subsections 104.02** and **109.04(e)**. The Department may, at any time, direct the Contractor to perform all or

part of the revised work in accordance with **Subsection 109.04(d)**.

If a Contract Revision includes a time extension for compensable delays as provided by **Subsection 108.07**, the Department will pay the costs associated with time extension in accordance with **Subsection 109.04(e)**.

- b. **Contract Pay Item.** Before proceeding to another pricing method, the Engineer will attempt to price and pay for Contract changes using Unit Bid Prices.
- c. **Negotiated Prices.** If the Engineer and Contractor cannot agree on compensation in accordance with **Subsection 109.04(b)**, they will attempt to negotiate the price of a Contract change.

When determining a negotiated price, the Contractor shall first provide an estimate of the proposed unit prices or lump sum price for the Contract change to the Engineer, including the following:

1. Labor requirements by trade in hours for each task.
2. Equipment costs and time requirements.
3. Material costs.

The Contractor shall provide the estimate within 5 working days after the Department's request. The Department will respond to the estimate within 5 working days after receipt of the Contractor's justification.

If the Department and the Contractor cannot agree on a negotiated price for the Contract Revision, the Engineer may direct the Contractor to perform all or part of the revised work in accordance with **Subsection 109.04(d)**.

- d. **Force Account.** When directed to perform work on a force account basis the Department will pay the Contractor as specified in this Section, as full compensation for performing the force account work, including delay costs, and all other associated costs. The Engineer may request the Contractor submit a written proposal for the Work, including the planned equipment, materials, labor, and work schedule.

The Contractor's representative and the Engineer at the end of each work day shall compare records of the cost of work completed on a Force Account basis. These daily records will be set forth on the forms provided by the Engineer and will thereafter be considered to be the basis for payment of the work performed, but will not preclude subsequent revision based on a later audit by the Department.

No payments will be made for work performed on a Force Account basis until the Contractor has furnished the Engineer with a statement of the cost of the Force Account work showing the following:

- Name of Subcontractor, if appropriate.
- Certified Payrolls: name, classification, date, daily hours, total hours, rate, and extension for each laborer, operator, and foreman.
- Quantities of materials, prices, and extensions.
- Charges for transportation of materials.

- Specialized work charges.
- Make, model, serial number, year of manufacture, designation, dates, daily hours, total hours, rental rate, and extension for each unit of equipment or plant.
- Cost of property damage liability, and worker's compensation insurance premiums, unemployment insurance contributions, and social security.

The Contractor shall certify that the labor, materials, and equipment listed were actually used on the Force Account Work described, that the labor and equipment were used for the hours indicated, and that the rates for labor do not exceed those for comparable labor currently employed on the project.

Statements shall be accompanied and supported by certified copies of the appropriate payrolls, and invoices for all materials and specialized work and for transportation charges. If materials used on the Force Account work are not specifically purchased for the work but are taken from the Contractor's stock, the Engineer shall be furnished an affidavit certifying that the materials were taken from stock, that the quantity claimed was actually used, and that the price and transportation costs claimed represent the Contractor's actual cost.

During the life of the Contract and for a period of not less than three years after the date of Acceptance thereof, the Contractor's cost records pertaining to work paid for on a Force Account basis shall be open to inspection or audit by representatives of the Department, and the Contractor shall retain such records for that period. Where payment for materials or labor is based on the cost thereof to forces other than the Contractor, the Contractor shall ensure that the cost records of such other forces will be open to inspection and audit by representatives of the Department on the same terms and conditions as the cost records of the Contractor.

Payment for force account work will be determined by the Engineer as follows:

1. **Labor.** For all labor and foremen in direct charge of the specific operations, the Contractor shall receive the rate of wage actually paid in accordance with its certified payroll, for each and every hour that said labor and foremen are actually engaged in the Work.

No part of the salary or expenses of anyone connected with the Contractor's forces above the grade of foreman, and/or having general supervision of the work, shall be included in the labor item as specified above.

The Engineer reserves the right to approve the number and type of labor employed and not pay for unapproved labor.

The Contractor shall be reimbursed the costs paid to, or on behalf of, workers by reason of subsistence and travel allowances, health and welfare benefits, pension fund benefits or other benefits, when such amounts are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed in the Work.

A surcharge of 20 percent of the total amount of the above items will be paid the Contractor.

2. **Bond, Insurance and Tax.** For property damage and liability insurance premiums, unemployment insurance contributions, and social security taxes incurred on force account work, the Contractor shall receive the actual cost, to which cost a surcharge of 6-percent will be added. For Worker's Compensation Insurance Premiums, the Contractor shall receive the actual cost of the worker's compensation costs incurred, which shall be calculated net of all applicable credits, rebates, refunds, and allowances. An additional surcharge will be added to the actual costs incurred. The surcharge amount is calculated from the Experience Modification Factor (MOD Factor) as follows:
 - (a) For MOD factors greater than 1.0 the surcharge shall be 6%.
 - (b) For MOD factors greater than .80 and less than or equal to 1.0 the surcharge shall be 8%.
 - (c) For MOD factors less than or equal to .80 the surcharge shall be 10%.

The Contractor shall furnish satisfactory evidence of the rate or rates paid for such bonds, insurances, and taxes. In addition, the Contractor shall submit a copy of their Worker's Compensation policy showing the current MOD factors.

3. **Materials.** For materials accepted by the Engineer and used in the Work, the Contractor will be reimbursed the cost of such materials, including transportation charges paid (exclusive of machinery rentals as hereinafter set forth), to which cost a surcharge of 15 percent will be added. The Contractor will not be reimbursed for any penalty or carrying charge incurred due to late or delayed payment for materials used in the Work.
4. **Equipment.** For any Contractor-owned machinery or special equipment (other than small tools), the use of which is approved by the Engineer, the hourly rate will not exceed that determined from the appropriate edition of the "Rental Rate Blue Book for Construction Equipment" published by Equipment Watch used in the following manner:
 - (a) The hourly equipment rental rate R will be determined by formula as follows: $R = (A \times B \times C) + D$ Where A = Monthly rate divided by 176. The listed weekly, hourly, and daily rates will not be used. B = Average regional adjustment factor for Rhode Island. C = Factor from Rate Adjustment Table (FHWA Column) for the year of equipment manufacture. D = Estimated operating costs per hour.
 - (b) Mobilization/Demobilization is to be based on standby rates per subparagraph (h), The number of hours to be paid for will be the number of hours that the equipment or plant is actually used on a specific Force Account activity and, in addition, shall include the time required to move the equipment to the location of such Force Account activity and return it to the original location or to another location requiring no more time than that required to return it to its original location.4, except that moving time

will not be paid for if the equipment is used during the move on work other than the specific Force Account activity.

- (c) The "Rate Effective Date" to be selected online will be the actual date that the work was performed.
- (d) The estimated operating costs per hour will be used for each hour that the equipment or plant is in operation on the Force Account work. Operating costs are not reimbursable for the time the equipment is idle.
- (e) The maximum rental period to be paid per day shall not exceed eight hours unless the equipment operates for eight or more hours.
- (f) If equipment is idled solely due to the responsibility of the Department, then the Contractor may be compensated for such idle equipment at 50% of the rate "A" as defined in subparagraph(a) above.
- (g) The FHWA Column rates are inclusive of all allowable costs. The following items are deemed incidental to the work and will not be paid for separately: fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs, overhauls, maintenance of any kind, depreciation, storage, field and home office overhead, profits, and insurance.

The Contractor shall provide the Engineer with the following: the manufacturer's name, equipment type, make, model, serial number, year of manufacture, type of fuel used, horsepower rating, attachments required, together with their size or capacity, and any further information necessary to ascertain the proper rate. Unless otherwise specified, manufacturer's ratings and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer. The Contractor shall have available for the Engineer's use a revised copy of the "Blue Book" as referenced above.

Equipment used by the Contractor shall be in good working condition and shall be of suitable size and suitable capacity required for the work to be performed. The rate for the basic equipment with the appropriate attachments shall include only the rate for the combined equipment necessary to perform the Extra Work. In case the Contractor elects to use equipment of a higher rental value than that suitable for the work, payment will be made at the rate applicable to the suitable equipment. The equipment actually used and the suitable equipment to be paid for will be recorded as a part of the record for Force Account work. The Engineer will determine the suitability of the equipment. If there is a differential in the rate of pay of the operator of oversize or higher rate equipment, the rate paid for the operator will likewise be that for the suitable equipment.

Payable time periods will not include:

- (a) time elapsed while equipment is inoperative due to breakdowns,
- (b) time spent repairing equipment, or
- (c) time elapsed 24 hours after the Engineer has advised the Contractor that the equipment is no longer needed.

If a piece of equipment is needed that is not listed in the above stated rental rate guide, a rate will be established by the Engineer in writing before the equipment is

used. The Contractor may furnish any cost data which might assist the Engineer in the establishment of such rate.

If the Contractor does not own a specific type of equipment and must obtain it by rental, the Contractor shall inform the Engineer of the need to rent the equipment and of the rental rate for that equipment before using it on the work. The Contractor will be paid the actual rental for the equipment for the time that the equipment is actually used to accomplish the work, provided that the rate is reasonable, plus the cost of moving the equipment onto and away from the job. The Contractor shall provide a copy of the paid receipt or canceled check for the rental expense incurred. Other costs not covered by the rental agreement, necessary to complete the work will be reimbursed, except for repairs and downtime.

Equipment leased from an affiliate, division, subsidiary, or other organization under common control with the Contractor will be considered Contractor owned equipment, unless the affiliate, division, subsidiary, or other organization has an established practice of leasing to unaffiliated lessees.

Transportation charges for each piece of equipment, whether owned or rented, moved to and from the site of the work will be paid provided:

- (a) the equipment is obtained from the nearest approved source,
- (b) the return charges do not exceed the delivery charges,
- (c) haul rates do not exceed the established rates of licensed haulers,
- (d) charges are restricted to those units or equipment not already available and not on or near the Project, and equipment is not used elsewhere on the project.

5. **Subcontracting.** For costs incurred in connection with approved Subcontractor Work, the Contractor shall be paid the cost of the Subcontractor Work plus a surcharge of ten percent. The Contractor shall require its subcontractor to provide the same documentation as required in this Section.
6. **Miscellaneous.** No additional allowance will be made for general superintendence, the use of small tools, or other costs for which no specific allowance is provided.
7. **Record Keeping.** On a daily basis, the Contractor's representative and the Engineer shall compare records of completed Force Account Work. The Engineer will then prepare the daily work sheets and said sheets shall be signed by the Contractor's representative no later than noon of the next Work Day.
8. **Cost Statements for Payment.** No payment will be made for Force Account Work until the Contractor has furnished the Engineer with two copies of itemized statements of the cost of such work, incurred on a daily basis, and detailed as follows:
 - (a) Certified payrolls, name, classification, date, daily hours, total hours, rate and extension for each laborer and foreman.
 - (b) Make, model, serial number, year of manufacture, designation, dates, daily hours, total hours, rental rate, and extension for each unit of

- machinery and equipment.
- (c) Quantities of materials, prices, and extensions.
- (d) Transportation of materials.
- (e) Cost of property damage, liability and worker's compensation insurance premiums, unemployment insurance contributions, and social security taxes.

Statements shall be accompanied and supported by certified payrolls, and paid invoices for all materials used and transportation charges. However, if materials used on the Force Account Work are not specifically purchased for such work but are taken from the Contractor's stock, then in lieu of the invoices, the Contractor shall furnish an affidavit certifying that such materials were taken from its stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the cost to the Contractor.

9. **Non-allowable Costs.** The Department will not reimburse the Contractor for the following:

- (a) Profit in excess of that provided herein;
- (b) Loss of profit;
- (c) Labor inefficiencies;
- (d) Home office overhead in excess of that provided herein;
- (e) Consequential damages, including but not limited to loss of bonding capacity, loss of bidding opportunities, insolvency, the effects of force account work on other projects, and business interruption;
- (f) Indirect costs of any nature;
- (g) Costs for Attorneys' fees, claim preparation expenses, and the costs of litigation; and
- (h) Constructive acceleration.

e. **Compensation for Delays.** For an excusable compensable delay as identified in **Subsection 108.07**, the Department will pay for the costs as specified herein.

1. Allowable delay costs shall include:

- (a) Non-salaried labor expenses;
- (b) Material Costs;
- (c) Equipment Costs;
- (d) Extended job-site overhead (inclusive of the costs to maintain the job site during the delay)
- (e) An additional surcharge of 10 percent of the total of items I, ii, iii and iv, to account for home office overhead as well as all salaried labor (both home office and extended field supervision), and profit.

2. The Contractor shall document all costs claimed when measuring additional equipment expenses (i.e., ownership expenses) that result directly from a delay caused by the Department. Use actual records kept in the usual course of business, not equipment rental rate guides, and measure increased ownership expenses according to generally accepted accounting principles. The State will not pay for delay costs before the Contractor submits an itemized statement of those costs.

3. The State will not pay for non-allowable charges specified in **Subsection 109.04(d)(9)**, nor duplicate payment made under **Subsection 109.04(b)** through **Subsection 109.04(d)**. The State will not make any payments for costs calculated using any of the following methods:

- (a) Total cost methods based on calculation of costs as the difference between the Contractor's bid for the work and the Contractor's calculation of the costs for the work.
- (b) Calculation of home office overhead using the Eichleay Formula or other formulas used to calculate home office overhead due to delay.

f. **Directed Acceleration.** The Engineer may order the Contractor to accelerate the Work to mitigate Excusable Delays or to complete the Project early. When directed to accelerate, the Department will pay the Contractor as specified in **Subsection 109.04**.

109.05 ELIMINATED ITEMS. The State may partially or completely eliminate Contract Items. When notified of the elimination of a Contract Item, if the Contractor believes that such elimination will necessitate a revision to the Contract Price, the Contractor shall provide notice in accordance with **Subsection 104.02(d)**. Failure to provide notice as specified in **Subsection 104.02(d)** constitutes a waiver of the Contractor's entitlement to compensation or a time extension and releases the State from responsibility for providing compensation or a time extension for any related claims filed under **Subsection 105.18**. The State will reimburse the Contractor for the actual Work completed in accordance with **Subsection 109.04**.

109.06 PAYMENT FOR WORK.

- a. General.** The Department will make payment for Work before the Project is accepted and final payment is made. These payments for Work will be processed via progress payments. To receive a payment for Work, the Contractor shall prepare an invoice in accordance with **Subsection 109.06(c)**. The Department may suspend progress payments if the Contractor does not comply with the terms of the Contract or the Engineer's instructions or written directives.

The Department will notify the Contractor whenever progress payments will be suspended. Processing of progress payments for work prior to the Department's acceptance and final payment of the Work does not constitute the Department's acceptance of the Work, and does not relieve the Contractor of responsibility for the Work, which includes but is not limited to:

1. Protecting, repairing, correcting, maintaining, or renewing the Work where necessary to meet Contract requirements before acceptance.
2. Replacing or repairing all defective work or materials used in the construction of the Work, and repairing all damage to other work or materials whose damage is attributable to such defective work or materials.
3. All defects or damage that the Engineer may discover on or before the Engineer's acceptance and final payment of the Work. The Engineer is the sole judge of these defects or damage.

- b. Frequency.** The Department will make progress payments bi-weekly (every two weeks) in accordance with established Department procedures. Progress payments will be subject to a 5 percent retainage.

- c. Invoice for Payment for Work.** The Contractor shall submit an invoice for payment bi-weekly (every two weeks), and, as requested by the Engineer, a weekly progress report for review detailing the items included in the invoice. The Contractor shall utilize and complete invoice forms supplied by the Department, including a certification for payment, in accordance with the instructions contained thereon.

- d. Invoice for Partial Payment for Materials, Supplies, and Equipment.** The Engineer may allow invoicing as provided above and permit partial payments for those materials, supplies, and equipment delivered to an approved location but not yet incorporated into the Work. Payment for materials, supplies and equipment furnished at an approved site but not yet incorporated into the Work will not exceed the lesser of the following amounts:

1. 100 percent of the cost incurred by the Contractor, or
2. 80 percent of the value calculated by multiplying the quantity of the item delivered by the unit price for the corresponding item in the Bid Schedule.

For verification of costs, the Contractor shall provide the Engineer with an original paid supplier's invoice for the furnished materials, supplies, or equipment within thirty (30) days after receiving the partial payment. Otherwise, the amount of the partial payment will be deducted from subsequent invoices.

The Engineer will not approve any payment for perishable plant materials until such plant materials are planted as specified in the Contract.

- e. Engineer's Review of Contractor's Request for Payment for Work and Request for Partial Payment for Materials, Supplies, and Equipment.** Upon receipt of the Contractor's invoice, the Engineer will review the invoice and may approve or reject payment or portions thereof. The Engineer will notify the Contractor in writing of any modifications and/or rejection of the invoice. Modifications and reasons for the change will be made to the Excel spreadsheet in the columns provided. In the case of a rejection, the Engineer will request that the invoice be resubmitted.
- f. Subcontractor Payments and Release of Retainage.** The Contractor shall notify RIDOT within 7 days upon the Contractor's assessment that the subcontractor's work is complete and ready for inspection for partial acceptance by RIDOT.

The Contractor shall make progress payments to the subcontractor incrementally as the Contractor is paid progress payments by RIDOT, with each progress payment made no more than 30 days from when so paid by RIDOT. The Work of a subcontractor will be inspected by RIDOT within 14 days of the date of Contractor's notification for partial acceptance. Within 30 days of partial acceptance of the completed subcontract work, the Department will pay the Contractor for all work covered by the acceptance including the relevant portion of retainage due the subcontractor. Within 30 days of receipt of such payment, the Contractor shall pay the subcontractor for all accepted subcontract work including all retainage owed. The Contractor must obtain RIDOT's prior written consent for good cause delays in or postponement of payment to the subcontractor.

- g. Final Release of Contractor Retainage.** Retainage due the Contractor will be released when all documentation requirements and items on the Punch List have been addressed to the satisfaction of the Engineer.
- h. Procedures for Payment for Work.** The Contractor shall prepare an invoice to apply for a payment for work completed. This invoice shall utilize the Request for Payment templates supplied by the Department, including the following attachments:
- 1. Detailed Invoice** - The detailed invoice shall be submitted in both hard copy and Excel® and include the following information:
 - (a)** The date of the invoice.
 - (b)** The Project Name and State and Federal-Aid Project Numbers.
 - (c)** The Contract Item number(s) and name(s) for which the Contractor is seeking payment, as they appear in the Contract Proposal.
 - (d)** The date(s) each Contract Item was performed.
 - (e)** Name of Contractor/Subcontractor(s) that performed the work.
 - (f)** The location(s) where the Work associated with each Contract Item was performed, cross referenced to the location(s) shown in the Distribution of Quantities.
 - (g)** Invoiced Item Quantities: The quantity of each Contract Item performed by date and by location since the previous invoice.

For Lump Sum Items, the Contactor shall provide the percentage of work completed since the previous invoice. Prior to the start of work, the Contractor shall submit a Lump Sum Item Breakdown for the Engineer's review, acceptance, and allocation of payments for the item, in accordance with **Subsection 109.07** of the Standard Specifications.

All calculations shall conform to the Method of Measurement and Basis of Payment portions of the appropriate Item Code(s). Documentation shall include, but is not limited to, backup calculations, measurements, sketches, and related supporting information.

- (h) Cumulative Item Quantities: A cumulative total of the quantities performed for each Contract Item, including the current request.
- (i) Bid Prices: The Contract Price for each Contract Item, including Unit Bid Items and Lump Sum Bid Items as applicable, shall be listed for each item being invoiced.
- (j) Extended Prices: Calculate the extended price of each item being invoiced in this request.

For Unit Bid Items, this is to be calculated by multiplying each item quantity completed during the invoice period by its Contract Unit Bid Price (i.e., $\text{Extended Price } \$ = \text{Qty. Invoiced} \times \text{Unit Bid Price}$).

For Lump Sum Items, this is to be calculated by multiplying each item by the percentage of work completed during the invoice period by its Lump Sum Bid Price (i.e., $\text{Extended Price } \$ = \% \text{Complete-this-invoice-period} \times \text{Lump Sum Bid Price}$).

- (k) Total Invoice Price: Sum all extended prices calculated in step 10 and report this amount as the total amount being invoiced under the request.

2. **Certificates of Compliance** - A list of the Certificate(s) of Compliance attached or that have been submitted to the Department, including date(s) submitted, for the work that is listed on the invoice in accordance with **Subsection 106.06**, Certification of Compliance, Warranties and Guarantees.
3. **Certified Payrolls** - A list of the certified payrolls attached or that have been submitted to the Department, including date(s) submitted, for the work that is listed on the invoice. List all outstanding payrolls yet to be submitted by week ending date and Contractor/Subcontractor(s).
4. **Subcontractor Payments** - A list of all payments (including all retainage payments) made to date to subcontractors for amounts previously billed and paid by the State for the related project.
5. **Extra Work** - A list of approved and/or potential extra work subject to approval, including dates(s) when the work was identified and/or approved, and a description and associated cost(s) of the work, including information pertaining to when and by whom the work was performed.

6. **EEO Certification** - A statement that all EEO documentation has been submitted as required by the Contract.
7. **As-Built Data** - A set of as-built data in hard copy or electronic form of the work billed on the invoice, including plans, sketches, diagrams, and all other information necessary for resulting in a complete and accurate set of as-built data representing the work completed. A final set of as-built plans is also required in accordance with **Subsection 934.03.3(h)**.

General - Outstanding or missing documentation for Items (1) through (7) above will be a basis for rejection and/or modification of the Request for Payment.

109.07 PARTIAL PAYMENT OF LUMP SUM ITEMS. The Contractor shall submit a breakdown of the cost of lump sum items to enable the Engineer to make partial payments as the Work is performed. Lump sum item breakdowns shall be submitted prior to the first progress payment that includes payment for the lump sum item in question. The Engineer reserves the right to reject the Contractor's lump sum item breakdown if such breakdown does not fairly represent the work to be performed. The Engineer may make progress payments based on quantities and/or prices determined by the Engineer.

109.08 ACCEPTANCE AND FINAL PAYMENT. When the Project has been accepted as provided in **Subsection 105.17**, and upon submission by the Contractor of all required reports, completed forms, certifications, and all other required submissions, the Engineer will prepare a final accounting of the quantities of work performed. The Department will make the final payment if the Contractor concurs with or does not dispute the final accounting within 30 days of receipt.

109.09 SUBCONTRACTOR PROMPT PAYMENT. The Contractor shall pay subcontractors, including payments of retainage, pursuant to R.I.G.L. 42-11.1-3, as amended. If a subcontractor has not provided a performance and payment bond, and subject to the contractor's rights of setoff as stated in R.I.G.L. 42-11.1-3, then the contractor shall pay the subcontractor for its work, including payments of retainage, no later than 30 days from the State's payment to the Contractor. The Contractor shall certify payments to subcontractors as provided in Subsection 109.06, otherwise the State may suspend progress payments to the Contractor.

The Contractor shall make progress payments to the subcontractor incrementally as the Contractor is paid progress payments by RIDOT, with each progress payment made no more than 30 days from when so paid by RIDOT. The Work of a subcontractor will be inspected by RIDOT within 14 days of the date of Contractor's notification for partial acceptance. Within 30 days of partial acceptance of the completed subcontract work, the Department will pay the Contractor for all work covered by the acceptance including the relevant portion of retainage due the subcontractor. Within 30 days of receipt of such payment, the Contractor shall pay the subcontractor for all accepted subcontract work including all retainage owed. The Contractor must obtain RIDOT's prior written consent for good cause delays in or postponement of payment to the subcontractor.

109.10 PROMPT PAYMENT PROCEDURES. In accordance with Title 42, Chapter 11.1-1 of the General Laws, all invoice vouchers submitted by the Contractor will be paid within thirty (30) days, provided however, that according to 42-11.1-5(B)2, the thirty (30) day period will not commence until the Department has reviewed and accepted all invoice documentation in its proper and approved form.

SECTION 413 RIDEABILITY – SURFACE COURSE

413.01 DESCRIPTION. This specification covers pavement rideability as determined by the Engineer in accordance with the rating scale, based upon post-paving rideability determination.

413.02 MATERIALS. N/A

413.03 CONSTRUCTION METHODS. Pavement rideability, or ride quality, will be determined by the Engineer using a profiler on all travel lanes. A travel lane is defined as the primary traveled portion of the roadway excluding non-normally traveled pavement surfaces. The profiler will meet all the equipment requirements of AASHTO M 328 and R 56.

413.03.01 Rideability for Standard Roads. Standard roads shall be roadways with posted speed limits above 30 miles per hour (MPH). For roads with speed limits that vary based on time of day (e.g., school zones) the higher speed limit shall apply for the purposes of this specification.

The surface course ride quality acceptance will be based on the average International Roughness Index (IRI) from three tests using a profiler established for each wheel path for 528-foot (0.1-mile) standard fixed intervals, and a simulated 10-foot rolling straightedge analysis for the width of each travel lane from one representative test. The testing will be conducted by the Engineer. The selected tests will be chosen based on data correlation between tests, profile lengths, and any factors noted during data collection or evidenced upon review to better qualify or disqualify a test. The representative tests will be selected at the Engineer's discretion.

An IRI number in inches per mile will be established using ProVAL or software supplied by the manufacturer of the profiler for each 528-foot (0.1-mile) longitudinal section for each wheel path in each travel lane. A 300-foot long-wavelength (high-pass) filter will be applied during testing. A 250mm short-wavelength (moving average) filter will be applied during analysis using ProVAL or other aforementioned profiling software.

A subplot will be each single wheelpath for each 0.1-mile section of each travel lane. Therefore, each 0.1-mile section of travel lane will consist of two sublots. A standard lot is defined as 20 consecutive sublots. If a road segment has less than 20 but more than 6 consecutive sublots for each wheelpath, a lot will be comprised of all the sublots from one wheelpath. If a road segment has 6 or less consecutive sublots for each wheelpath, a lot will be comprised of all the sublots from the road segment. If the final lots include 10 or more sublots for each wheelpath, they will be considered their own lots. If the final lots are less than 10 sublots, they will be added to the preceding or adjacent lots. Lots may be combined with adjacent lots in the following order of preference: with previous lot of the same wheelpath in the same lane, with opposite wheelpath of the same lane, with both wheelpaths of adjacent lane in the same direction or similar lane in the opposite direction within the same road segment, or as determined by the Engineer. If project paving limits for one roadway segment including all lanes consist of less than 0.46 lane-miles, the roadway segment paved shall be considered a pavement patch (413.03.02).

Areas that are excluded from rideability analysis for pay adjustment ("leave-out" sections) include roundabouts and bridge decks, the area 25 feet before and after pavement segments with catch basins in the travel lane and 15 feet before and after pavement segments with manholes or other structures in the travel lane, the areas 25 feet before and after bridge joints, and 25 feet after and before project paving limits, all as determined by the Engineer. Additional areas may be excluded from testing in the interest of obtaining data safely. All areas included in the paving limits (including "leave-out" sections) will be tested using a 10-foot rolling straightedge simulation

analysis using ProVAL or other profiling software. The variation of the surface between any two contacts along the simulated straightedge shall be not more than 0.25 inches, except for manholes, catch basins and other structures in the travel lane which shall not deviate from the surface by more than 0.30 inches below final grade or 0.10 inches above final grade of pavement as tested with 10-foot straightedge or rolling straightedge simulation. Humps, depressions, and utility structures (as adjusted or remaining) exceeding the specified tolerances shall be subject to correction at no additional cost to the State. The Contractor's corrective work plan including method of correction shall be submitted to the Engineer for approval. No corrective work shall be performed without the approval of the Engineer.

Sections before "leave-out" sections and the section at the end of the paving limit will be added to the previous subplot or subsequent section(s) if they are less than 0.05 miles or may be considered a full subplot if they are greater than or equal to 0.05 miles. For roadways having many utility structures, with successive sections before or between "leave-out" sections or at the end of the paving limit that are less than or near to 0.05 miles, sections will be combined to best approximate 0.10 miles for each subplot. No subplot will exceed 0.15 miles.

413.03.02 Rideability for Low-Speed Roads and Pavement Patches. Low-speed roads shall be roads with a posted speed limit of 30 MPH or below. The Department will measure from 10 feet before to 10 feet after paving limits of low-speed roads or permanent pavement patches in the lane and test this road segment using a 10-foot rolling straightedge simulation analysis in ProVAL or other profiling software. If the variation of the surface between any two contacts along the simulated straightedge exceeds 0.25 inches at any distance from 2 feet before to 2 feet after the paving limits or pavement patch, corrective action shall be required and the Contractor must submit a corrective work plan. No corrective work shall be performed without the approval of the Engineer. Corrective work shall be at no cost to the State. In addition, the -0.30" to +0.10" surface deviation tolerances noted in Section 413.03.01 above shall apply for any manholes or other structures in the lane that are within the paving limits of the low-speed road or pavement patch.

Permanent pavement patches and structures, including any corrective work, must continue to comply with the tolerances described above for the longer of one year after installation or one year after completion of any required corrective work or additional corrective work will be required at no additional cost to the state.

413.03.03 Rideability for Bridges. The Department will measure the entire length of the bridge encounter using a 10-foot rolling straightedge simulation analysis in ProVAL or other profiling software. The bridge encounter starts 10 feet before the initial bridge pavement cut and match or 40 feet before the initial bridge joint, whichever is farther, and stops 10 feet beyond the terminal bridge pavement cut and match or 40 feet beyond the terminal bridge joint, whichever is farther. The bridge encounter includes approach pavement, entry approach slab, bridge deck, exit approach slab, and exit pavement. In the event only the bridge deck is paved (no approaches), the section of new pavement will be considered a pavement patch.

Perform corrective work when the variation of the surface between any two contacts along the simulated straightedge exceeds 0.25 inches in any profile within the full width of a marked traffic lane along the measured length of the bridge encounter. Submit a corrective work plan to the Engineer for approval prior to performing corrective work. This plan may include mill and overlay, PCC overlay, diamond grinding or combination thereof. Any costs associated with structural review of added loads to the bridge will be tracked by the Department and reimbursed by the contractor as a disincentive using a Report of Change. In order to produce a uniform cross section, the Engineer may require corrections to the adjoining lanes and shoulders. No corrective

work shall be performed without the approval of the Engineer. Corrective work shall be at no additional cost to the State.

413.04 METHOD OF MEASUREMENT

Table 1 provides the pay adjustment and corrective action criteria for standard roads based upon the posted speed limit of the roadway and the IRI of each subplot. IRI values shall be rounded to the nearest integer value for each subplot before assessing the pay adjustment.

Table 1				
Posted Speed Limit (MPH)				Pay Adjustment (Percent)
35	40-45	50	55-65	
IRI (Inches Per Mile)				
55 and Under	45 and Under	40 and Under	35 and Under	+5%
56 - 62	46 - 52	41 - 48	36 - 40	+4%
63 - 70	53 - 62	49 - 55	41 - 48	+3%
71 - 80	63 - 70	56 - 65	49 - 55	+1%
81 - 90	71 - 85	66 - 75	56 - 65	0%
91 - 110	86 - 95	76 - 82	66 - 72	-5%
111 - 125	96 - 110	83 - 92	73 - 82	-10%
126 - 145	111 - 125	93 - 105	83 - 95	-20%
146 - 160	126 - 140	106 - 120	96 - 110	-30%
Over 160	Over 140	Over 120	Over 110	Corrective Action Required*

***Corrective action will be required additionally for any section or segment with surface deviation(s) exceeding 0.25 inches when tested with a 10-foot straightedge or 10-foot rolling straightedge simulation analysis.**

When corrections to the pavement surface are required, the Contractor’s corrective work plan including method of correction shall be submitted to the Engineer for approval. The method of correction shall be limited to diamond grinding, flat tooth grinding or removing and replacing the affected pavement. If grinding is chosen, a grinding simulation using ProVAL shall be submitted to the Engineer for approval. In order to produce a uniform cross section, the Engineer may require corrections to the adjoining lanes and shoulders. Corrections shall be at no cost to the State. No corrective work shall be performed without the approval of the Engineer.

Where corrections are made after the official Department test, the pavement will be retested by the Engineer to verify that corrections have produced an acceptable ride surface. No incentives will be provided for sections on which corrective actions are performed.

In the event the corrective action(s) results in an IRI greater than the corrective action threshold for any subplot in any wheel path of a standard road, the Contractor will be assessed an adjustment based on **Table 2**.

Table 2				
Posted Speed Limit (MPH)				Pay Adjustment (Percent)
35	40-45	50	55-65	
IRI After Correction (Inches Per Mile)				
161 - 180	141 - 155	121 - 135	111 - 125	-50%
181 - 200	156 - 175	136 - 150	126 - 140	-75%
Over 200	Over 175	Over 150	Over 140	-100%

The pay adjustment for each subplot will be applied to the theoretical tonnage of each respective subplot. The theoretical subplot tonnage will be obtained by taking the subplot length, multiplied by half of the width of the travel lane (11 feet will be used for lane width unless otherwise indicated), multiplied by the design thickness of the surface course, multiplied by the unit weight derived from 94% of the average of the theoretical maximum densities for dense graded mixes or 90% of the theoretical maximum density for Friction Course or PPEST mixes. In the absence of plant tests for theoretical maximum density of any HMA or PPEST, average bulk specific gravity of mat final cores may be used to determine density. Theoretical tonnage values shall be rounded to 2 decimal places.

This rideability specification does not relieve the Contractor from responsibility concerning workmanship in accordance with the Specifications and other Contract requirements.

413.05 BASIS OF PAYMENT

A pay adjustment will be determined for each subplot based upon the IRI of that subplot as described above. The theoretical tonnages of all the sublots in one lot (as defined in 413.03 paragraph 4) will be totaled to yield the theoretical lot tonnage. The subplot tonnage adjustments will be obtained by multiplying the theoretical tonnage of a subplot by that subplot's pay adjustment. Tonnage adjustments shall not be rounded. The subplot tonnage adjustments will be totaled to determine the lot tonnage adjustment. The lot tonnage adjustment will be divided by the theoretical lot tonnage to obtain the unit price adjustment for that lot. Unit price adjustment will be rounded to six absolute decimal places for each lot (i.e., XX.XXXX%). This unit price adjustment will be multiplied by the unit price of the surface course HMA and applied to the theoretical tonnage of the lot for pay purposes.

If the Contract does not have an item number exclusively for the surface course HMA as it has been grouped with related work such as tack coat, base course HMA or micro-milling, or surface course HMA does not otherwise have an explicit price basis, and if the Contractor has not submitted an accepted exclusive unit price basis for the surface course HMA prior to beginning any resurfacing or paving activity, the Department may use the Weighted Average Unit Price (WAUP) for the respective surface course HMA for rideability pay adjustment purposes.

Incentives will be addressed using Item Code 416.0001. Disincentives will be addressed using a Report of Change.

SECTION 416

PAY ADJUSTMENTS

416.01 DESCRIPTION. This specification provides a mechanism for the payment of performance incentives (positive pay adjustments) for binder content, air voids, in-place density and/or rideability.

416.02 MATERIALS. N/A.

416.03 CONSTRUCTION METHODS. N/A.

416.04 METHOD OF MEASUREMENT. Pay adjustments will be measured using the "Method of Measurement" section of the applicable HMA and/or rideability specification.

416.05 BASIS OF PAYMENT. Pay adjustments will be paid per each unit using the requirements in the "Basis of Payment" section of the applicable HMA and/or rideability specification.