

Baltimore County
Department of Public Works

STANDARD
SPECIFICATIONS
FOR
CONSTRUCTION
AND MATERIALS



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Foreward

The Year 2000 edition of Baltimore County's *Standard Specifications for Construction and Materials* was approved by the Baltimore County Council in 1999 to replace the County's 1976 Specifications and its subsequent errata and addenda. The Council also approved the publication of the *Standard Details for Construction*, which has been published separately. Copies of both books are available through the Bureau of Engineering and Construction, Baltimore County Department of Public Works, 111 West Chesapeake Avenue, Towson, MD 21204.

Charles R. Olsen
Director of Public Works

GENERAL PROVISIONS

GP - SECTION 1 DEFINITIONS AND TERMS

GP-1.01 GENERAL

Wherever in these General Provisions or in other Contract Documents the following terms or abbreviations are used, the meaning shall be as follows:

- (a)** This volume is based on the Maryland Department of Transportation, State Highway Administration General Provisions for Construction Contracts dated October, 1993, as amended in this volume, and the Maryland Department of Transportation, State Highway Administration Standard Specifications for Construction and Materials dated October, 1993, as amended in this volume. It has been prepared as the Manual of Standard Specifications under the authority of Section 26-283 of the Baltimore County Code.
- (b)** Baltimore County has adopted a set of standard detail drawings as its Manual of Standard Details which are published as a part of this volume under the authority of Section 26-283 of the Baltimore County Code.
- (c)** Wherever in these General Provisions or in other Contract Documents the following terms or abbreviations are used, the meaning shall be as follows:

GP-1.02 ORGANIZATIONAL STRUCTURE

Reserved

GP-1.03 ORGANIZATIONAL DEFINITIONS

Administration - Baltimore County.

Administrator - The Director of the Department of Public Works, Baltimore County.

Baltimore County - Baltimore County, Maryland: a body corporate and politic.

Department - The word “Department” shall mean the Department of Public Works of Baltimore County.

Engineer - One of the following engineering executives:

Director of Public Works
Deputy Director of Public Works
Chief, Division of Construction Contracts Administration
Chief, Bureau of Engineering & Construction.

Any delegation of the Engineer’s authority must be authorized in writing by any one of the above listed officials, and such delegation of authority will pertain only to the specific contract and/or contracts shown by the authorization. The title of the specific official will appear in those cases within these specifications where the word “Engineer” as defined herein is not sufficiently specific.

Inspector - The authorized representative of the procurement officer assigned to make detailed inspection of any or all portions of the work, or materials therefor.

Procurement Officer - See Engineer.

GP-1.04 ABBREVIATIONS

| | |
|----------------|--|
| AAN | American Association of Nurserymen |
| AAPA | American Association of Port Authorities |
| AAR | Association of American Railroads |
| AASHTO | American Association of State Highway and Transportation Officials |
| ACI | American Concrete Institute |
| AIA | American Institute of Architects |
| AIEE | American Institute of Electrical Engineers |
| AISC | American Institute of Steel Construction |
| AISI | American Iron and Steel Institute |
| ANSI | American National Standards Institute |
| ARA | American Railway Association |
| AREA | American Railway Engineering Association |
| ASCE | American Society of Civil Engineers |
| ASHRAE | American Society of Heating, Refrigeration and Air-Conditioning Engineers |
| ASLA | American Society of Landscape Architects |
| ASME | American Society of Mechanical Engineers |
| ASTM | American Society for Testing and Materials |
| ATA | American Transit Association |
| AWWA | American Water Works Association |
| AWS | American Welding Society |
| AWG | American Wire Gauge |
| AGC | Associated General Contractors of America |
| bccmp | bituminous-coated corrugated metal pipe |
| bccmpa | bituminous-coated corrugated metal pipe arch |
| B&S | Brown & Sharpe Wire Gauge |
| BOCA | Building Officials Conference of America |
| cip | cast iron pipe |
| cipx | cast iron soil pipe, extra strength |
| cmp | corrugated metal pipe |
| CPVC | Chlorinated Poly Vinyl Chloride |
| CSPA | Clay Sewer Pipe Association |
| COMAR | Code of Maryland Regulations |
| CRSI | Concrete Reinforcing Steel Institute |
| dip | ductile iron pipe |

| | |
|--------------|---|
| EI | E dison E lectric I nstitute |
| EIA | E lectronic I ndustries A ssociation |
| EPA | E nvironmental P rotection A gency |
| FAA | F ederal A viation A dministration, U.S. Department of Transportation |
| FCC | F ederal C ommunications C ommission |
| FHWA | F ederal H ighway A dministration, U.S. Department of Transportation |
| FRA | F ederal R ailway A dministration, U.S. Department of Transportation |
| FSS | F ederal S pecifications and S tandards, General Services Administration |
| IEEE | I nstitute of E lectrical and E lectronic E ngineers |
| IES | I lluminating E ngineers S ociety |
| IPCEA | I nsulated P ower C able E ngineers A ssociation |
| IRT | I nstitute for R apid T ransit |
| MBE | M inority B usiness E nterprise |
| MBMA | M etal B uilding M anufacturers' A ssociation |
| MDOT | M aryland D epartment of T ransportation |
| MSMT | M aryland S tandard M ethod of T ests (as developed by the State Highway Administration) |
| MUTCD | M anual on U niform T raffic C ontrol D evelopments |
| NBFU | N ational B oard of F ire U nderwriters |
| NBS | N ational B ureau of S tandards |
| NEC | N ational E lectric C ode |
| NEMA | N ational E lectrical M anufacturers' A ssociation |
| NFPA | N ational F ire P rotection A ssociation |
| NIST | N ational I nstitute of S tandards and T echnology |
| OSHA | O ccupational S afety and H ealth A dministration |
| PCA | P ortland C ement A ssociation |
| pccp | p restressed concrete c ylinder p ipe |
| PCI | P recast C oncrete I nstitute |
| PVC | P oly V inyl C hloride |
| rccp | r einforced concrete c ulvert p ipe |
| rcsp | r einforced concrete s ewer p ipe |
| RLMI | R eflector and L amp M anufacturers' I nstitute |
| RMA | R ubber M anufacturers' A ssociation |
| SAE | S ociety of A utomotive E ngineers |

| | |
|--------------|--|
| SAWP | S ociety of A merican W ood P reservers |
| SHA | S tate H ighway A dministration |
| SSPC | S teel S tructures P ainting C ouncil |
| ucpx | u nglazed c lay p ipe, e xtra strength |
| ULI | U nderwriters L aboratories, I ncorporated |
| UMTA | U rban M ass T ransportation A dministration, U.S. Department of Transportation |
| USSG | U nited S tates S tandard G auge |
| USSWG | U nited S tates S teel W ire G auge |
| WBE | W omen’s B usiness E nterprise |

GP-1.05 DEFINITIONS

Advertisement — The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished.

Agreement — The Agreement between the Contractor and the County which is a document forming a part of the Contract.

Award — The decision and notice given by the County of the acceptance of a Proposal. A limited contract as specified herein (including but not limited to section GP 3.04 “Execution of Contract”) exists from the date of Award pending execution of the Agreement.

Bid — A statement of price, terms of sale, and description of the supplies, services, construction or construction-related services offered by a bidder to the County in response to an Invitation for Bids.

Bid Bond — (See Proposal Guaranty).

Bid Form — The approved form on which an Administration requires bids to be set forth and submitted.

Bid Item — An item of work specifically described and for which a price, either unit or lump sum, is provided. It includes the performance of all work and the furnishing of all labor, equipment and materials described herein or described in any Supplemental Specifications or Special Provisions. (See Contract Items)

Bidder — A person formally submitting a bid for the work contemplated, acting directly or through a duly authorized representative.

Business — A corporation, partnership, individual, sole proprietorship, joint venture, or any other legal entity through which commercial activity is conducted.

Business Day — Every day shown on the calendar except Saturdays, Sundays and Holidays.

Calendar Day — Every day shown on the calendar, Saturdays, Sundays and holidays included.

Change Order — A written order signed by the responsible procurement officer, directing a Contractor to make changes which the changes clause of a Contract authorizes the procurement officer to order with or without the consent of the Contractor.

Completion Date — (See Contract Time in section TC 1.02).

Construction — The process of building, altering, repairing, improving or demolishing any structure, building, or other improvement to real property.

Construction Strip — An area contiguous to a permanent easement, temporarily acquired for the use of the Contractor during the execution of the work. This area is present only when shown on the Plans.

Contingent Item — Any item listed in the contract documents and included in the Bid for the purpose of obtaining a contract price. Such bid constitutes tender of an exercisable option to incorporate such items into the work in accordance with the stated items at bid prices.

Contract — The written Agreement executed between the County and the successful bidder covering the performance of the work and the furnishing of labor, equipment and materials, by which agreement the Contractor is bound to perform the work and furnish the labor, equipment and materials and by which the County is obligated to compensate him therefor at a mu-

tually established and accepted rate or price. The Contract shall include all the documents listed under “Contract Documents”, as well as any written Contract Modification that is required to complete the construction of the work in an acceptable manner, including any authorized extension thereof, all of which constitute one instrument.

Contract Bond — (See “Bid Bond”, “Payment Bond”, “Performance Bond” and “Proposal Guaranty”).

Contract Documents — The written agreement executed between an Administration and the successful bidder, covering the performance of the work and furnishing of labor, equipment and materials, by which the Contractor is bound to perform the work and furnish the labor, equipment and materials, and by which the Administration is obligated to compensate him therefor at the mutually established and accepted rate or price. The Contract Documents shall include the Invitation for Bids, Notice to Contractors, Instructions to Bidders, Proposal, Contract Forms and Bonds, General Provisions, Specifications, Supplemental Specifications, all Special Provisions, all Technical Provisions, all Plans and Notices to Proceed, also any written Change Orders and Supplemental Agreements that are required to complete the construction of the work in an acceptable manner, including authorized extension thereof, the Award Letter, the Agreement, and the Information for Bidders.

Contract Drawings — (See definition of “Plans”).

Contract Item (Pay Item) — An item of work specifically described and for which a price, either unit or lump sum, is provided. It includes the performance of all work and the furnishing of all labor, equipment, and materials, described herein or described in any Supplemental Specifications or Special Provisions.

Contract Modification — Any written alteration in the Specifications, delivery point, date of delivery, Contract period, price, quantity, or other provision of any existing Contract, whether accomplished in accordance with a Contract Provision, or by mutual action of the parties to the Contract.

It includes change orders, extra work orders, supplemental agreements, Contract amendments, or reinstatements.

Contract Number — The eight-place combination of numerals and letters by which all contracts are identified:

9 6 0 0 0 X X 0

The first two digits indicate the year. The next three digits indicate the sequential numbering; the first contract of each year is numbered 001, the second contract 002 etc., regardless of the division of the contract.

The three-space alpha-numeric combination (X X 0 above) indicates the general nature of the work and the division of the contract for accounting purposes. The two letters (X X) indicate the general nature of the work. The last digit indicates the numerical division of the contract. A zero as the last digit indicates that the contract will be accounted as a whole.

GENERAL NATURE OF THE WORK

First X

B - Bridge
C - Culvert
D - Storm Drain
G - Grading or miscellaneous

Second X

D - Development (Public)
F - Fire Station
L - Library

P - Public Building
R - Road
S - Sewer
W - Water

O - Operating Building
P - Police Station
X - Capital Improvement
S - Development (Private)

Contractor — The party of the second part to the Contract; the individual, partnership, firm, or corporation undertaking the execution of the work under the terms of the Contract and acting directly or through his, their, or its agents or employees.

Day — Calendar day unless otherwise designated.

Fixed-Price Items — Unit prices established and prescribed by the County to compensate for the cost of work and materials that may or may not be necessary for the proper completion of the Contract, and the quantities of which are not amenable to the reliable quantitative estimate prior to construction. Fixed-price items are shown on the proposal sheets with the estimated quantities, fixed price, and estimated total cost imprinted prior to issuance of the contract documents to bidders.

Informal Contract — A private contract not exceeding a bid price of fifteen thousand dollars (\$15,000), subject to the approval of the Department of Permits and Development Management, bid on a lump sum basis, and not requiring a contractor performance bond or payment bond. Informal contracts may be used for commercial water meters and detector checks two (2) inches and smaller, fire hydrants, sanitary connections, residential water and sewer house connections for four (4) lots or more, and small road and drain projects not exceeding the maximum bid price.

Invitation for Bids — Any document, whether attached or incorporated by reference, used for soliciting bids under procurement by competitive sealed bidding and small procurement procedures including requests for quotations.

Major Contract Items — The original Contract Items of greatest cost (computed from the original price and estimated quantity - or lump sum price) plus such other Contract Items next in sequence of lower cost (computed in like manner) as are necessary to show a total cost at original prices and quantities of not less than 60 percent of the original contract cost. (See “Minor Contract Items”)

Minor Contract Items — All contract items other than the Major Contract Items. (See “Major Contract Items”)

Materials — Any substances specified for use in the construction of the project and its appurtenances.

Non-Discrimination in Employment — A form which is required to accompany the Bid.

Notice to Contractors — (See “Invitation for Bids”).

Notice to Proceed — A written notice to the Contractor of the date on or before which he shall begin the prosecution of the work to be done under the Contract.

Pay Item — (See Contract Item)

Payment Bond — A County-approved form of security furnished by the Contractor and his Surety as a guaranty of good faith to pay promptly, or cause to be paid promptly, in full, such sums as may be due for material furnished and/or labor supplied or performed, or services rendered by public utilities or other parties in the prosecution of the work under the Contract. This bond is in addition to the Performance Bond.

Performance Bond — The approved form of security, executed by the Contractor and his Surety or Sureties, guaranteeing complete compliance with the Contract and all Contract Modifications thereto.

Person — Any individual or a corporation, partnership, sole proprietorship, joint stock company, joint venture, unincorporated association, union, committee, club, or other organization or legal entity.

Private Contract — A Private Contract for highway, storm drain, water main, and sanitary sewer construction is let by land developers, by procedures pursuant to Public Works Agreements with Baltimore County, Maryland. The developer, in such a contract, obtains the bid privately using contract forms provided by the Division of Construction Contract Administration.

Plans — The official drawings issued by the Administration as part of the Contract Documents, including those incorporated in the Contract Documents by reference.

Procurement Agency — Baltimore County, Maryland

Procurement Officer — (See “Engineer”).

Proposal — The response by an offeror to a request for proposals issued by a procurement agency to obtain goods or labor. The response may include but is not limited to an offeror’s price and terms for the proposed Contract, and description of technical expertise, work experience and other information as requested in the solicitation. As used herein the word “proposal” means “bid”.

Proposal Affidavit — A certified form which is required to accompany a bid.

Proposal Form — The approved form on which the County requires proposals to be set forth and submitted (See “Bid Forms”).

Proposal Guaranty — The security designated in the Proposal to be furnished by the Bidder as a guaranty of good faith to enter into a contract with the County if the work of constructing the improvement is awarded to him.

Questionnaire — The approved form or forms upon which the Contractor shall furnish the information as to his ability to perform the work, his experience in similar work, the equipment to be used, and his financial condition as related to his ability to finance the work.

Responsible Bidder or Offeror — A person who has the capability in all respects to perform fully the Contract requirements, and the integrity and reliability that shall assure good faith performance.

Responsive Bid — A bid submitted in response to an Invitation for Bids that conforms in all material respects to the requirements contained in the Invitation for Bids.

Responsive Bidder — A Contractor prequalified by work categories whose bid conforms in all material respects to the solicitation.

Specification — A written description of functional characteristics, or the nature of a construction item to be procured. It may include a statement

of any of the user's requirements and may provide for inspection, testing, or preparation of a construction item before procurement.

State — The word State refers to the County, unless referring to a specific person or agency for specific work.

State Agency — A state agency or officer thereof, including any agency or officer succeeding to their powers, duties, jurisdictions and authority in accordance with law.

Subcontractor — Any person undertaking a portion of the construction or any other part of the work under the terms of the Contract, by virtue of an agreement with the Contractor or a subcontractor, who prior to such undertaking has received the approval of the Administration. Subcontractor does not include an employee with an employment contract, or an employee organization with a collective bargaining agreement.

Superintendent — The executive representative of the Contractor authorized to receive and execute instructions from the procurement officer, and who shall supervise and direct the construction.

Supplemental Agreement — Any written contract modification indicating an offer and acceptance as to terms, conditions, costs and time, satisfying the mutual interests of the parties thereto as indicated by the signature of the Contractor's authorized representative and the Engineer as mutually authorized in the Contract documents.

Supplemental Specifications — Specifications adopted by Baltimore County in accordance with Section 26-283 of the Baltimore County Code after the publication of this book. They generally involve new construction items or substantial changes in the approved Specifications. Supplemental Specifications shall prevail over those published in this book whenever the two are in conflict.

Surety — The corporate body bound with and for the Contractor, for the full and complete performance of the Contract, and for the payment of all debts pertaining to the work. When applying to the Bid Bond, it refers to

the corporate body which engages to be responsible in the execution by the bidder of a satisfactory Contract.

Work — Work shall be understood to mean the furnishing of all labor, materials, equipment, and other incidentals necessary to the successful completion of the project and the carrying out of all the duties and obligations imposed by the Contract.

GP - SECTION 2 BIDDING REQUIREMENTS AND CONDITIONS

GP-2.00 GENERAL

Only the bid of a Contractor who holds a valid Prequalification Certificate 10 days prior to the date of Bid Opening will be considered. A Prequalified Contractor is one whose rating and classification have been determined by the Prequalification Committee and ratified by the Director of Finance

All applicants for prequalification must submit to the Department of Public Works:

- 1. Contractor's Application**
- 2. Experience Questionnaire**

These forms are furnished on request. They must be filed with the Department of Public Works in sufficient time for action to be completed ten (10) days before the date of Bid Opening.

A prospective bidder, when prequalifying, shall state in his application the extent and type of work he considers himself qualified to handle at one time. His Experience Questionnaire shall show the exact type of work he has performed during the preceding five (5) years. This information shall be the basis for a determination of his financial rating and his work classification. Following the evaluation, the Contractor may receive a Certificate of Prequalification from the Director of Finance.

A Prequalification Certificate, subject to the following provision, is valid through the expiration date stated on the Certificate. The County reserves the right to re-evaluate a Prequalified Contractor. A Bidder who holds a Prequalification Certificate shall furnish additional information bearing on his qualification as may be required. The County reserves the right to reject unopened the bid of any Bidder who fails to furnish promptly and properly all the information called for when so notified.

A Contractor, dissatisfied with his rating or classification or both, may request a reconsideration on the basis of additional or revised information submitted to the committee in writing and may request a meeting with the committee to support his resubmittal.

Each Bidder shall further qualify as otherwise called for in the Contract documents.

A prospective Bidder may purchase plans if his Prequalification Certificate is valid. Materials suppliers and other interested parties may purchase Plans without prequalification, such Plans to be marked: "NOT FOR BIDDING PURPOSES".

GP-2.01 BID IRREVOCABLE

Unless otherwise provided in the Invitation for Bids, bid prices are irrevocable for 90 days following bid opening.

GP-2.02 CONTENTS OF BID FORMS

All papers included in, bound thereto or attached to the bid form are necessary parts thereof and shall not be detached, separated or altered. The Plans, Specifications, Supplemental Specifications, referred to in the Specifications, and all other Contract Documents will be considered a part of the bid form whether attached thereto or not.

GP-2.03 INTERPRETATION OF QUANTITIES IN BID SCHEDULE

Where designated as estimated quantities, the quantities in the prepared bid schedule are approximate only. Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the Contract and as provided in GP-4.04, Variations in Estimated Quantities.

GP-2.04 SITE INVESTIGATION

The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, and confirmation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the County, as well as from information presented by the drawings and specifications made a part of this Contract. Any failure by the Contractor to acquaint himself with the available information may not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The County assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the County.

GP-2.05 TAXES - RESPONSIBILITY FOR PAYMENT, EXEMPTIONS, FORMS TO FILE, ETC.

- (a) The Contractor is responsible for, and by submitting a bid agrees to pay, all retail sales, income, real estate, sales and use, transportation and special taxes applicable to and assessable against any materials, equipment, processes and operations incident to or involved in the construction. The Contractor is responsible for ascertaining

and acquainting himself with such taxes and making all necessary arrangements to pay same.

- (b) The Director of Finance of the County may not authorize payment to a Contractor who has submitted an invoice if that Contractor is indebted by virtue of unpaid taxes or other obligations when in an amount of fifty dollars (\$50) or more to any County agency. In this regard, Contractors shall indicate their Federal Tax Identification or Social Security number on the face of each invoice billed to the County.
- (c) If taxes or other obligations are owed to the County, payment shall be deferred, and the Contractor shall be promptly notified. Subsequent release of the deferred payment shall be made promptly when the taxes or other obligations are satisfactorily resolved.
- (d) The County hereby reserves the right to withhold final payments under this Contract until the Contractor and any Subcontractors performing any duties under this Contract have paid all taxes or other obligations due the State of Maryland or the County.

GP-2.06 PREPARATION OF BID

- (a) The bidder shall submit his bid upon the blank forms furnished by the Administration. The bidder shall specify a price in dollars and cents for each pay item given, and shall show the products of the respective unit prices and quantities written in figures in the column provided for that purpose, together with the total amount of the bid obtained by adding the amounts of the several items. In the case of bids with alternate items, the bidder must write or type the words "No Bid" in the unit price column of all alternates omitted.
- (b) The bid form(s) shall be filled out legibly in ink or typed. The bid, if submitted by an individual, shall be signed by the individual; if submitted by a partnership, it shall be signed by such member or members of the partnership as have authority to bind the partnership; if submitted by a corporation, the same shall be signed by an officer,

and attested by the corporate secretary or an assistant corporate secretary. If not signed by an officer, as aforesaid, there must be attached a copy of that portion of the By-Laws or a copy of a Board resolution, duly certified by the corporate secretary, showing the authority of the person so signing on behalf of the corporation. In lieu thereof, the corporation may file such evidence with the Administration, duly certified by the corporate secretary, together with a list of the names of those officers having authority to execute documents on behalf of the corporation, duly certified by the corporate secretary, which listing shall remain in full force and effect until such time as the Administration is advised in writing to the contrary. In any case, where a bid is signed by an Attorney in Fact, the same must be accompanied by a copy of the appointing document, duly certified. All bids shall be signed in ink. All erasures or alterations shall be initialed by the signer in ink.

(c) **Bid Samples and Descriptive Literature.** If the Invitation for Bids requires the bidder to furnish samples or descriptive literature, it shall be submitted with the bid, unless the Invitation for Bids provides otherwise.

(d) **Reserved**

GP-2.07 PROPOSAL GUARANTY

No proposal will be considered unless accompanied by a guaranty of the character and in the amount specified herein. The guaranty must be the Bid Bond in the form provided with the Proposal, executed by a surety licensed in the State of Maryland. The surety must guarantee payment to Baltimore County of liquidated damages of no less than 5% of the bid. If one bid is received, the guaranteed payment is 5%. If two or more bids are received, the guaranteed payment is the difference between the lowest and the next lowest bid, subject to the above percentage limitations. This guaranty is required in case the bidder defaults in any specified matter before the award or defaults in executing or delivering the Contract Agreement, together with Payment and Performance Bonds, after the award. The Surety must be currently rated "B" or better by the A.M. Best Company, and the bid must

be in an amount less than or equal to the underwriting limitation contained in the Department of Treasury Circular 570 as amended at the time of underwriting.

GP-2.08 DELIVERY OF BIDS

Each bid must be submitted in a sealed envelope plainly marked to indicate its contents. When sent by mail, the sealed bid must be addressed to the Administration at the address and in care of the official in whose office the bids are to be received. All bids shall be filed prior to the time and at the place specified in the Notice to Contractors. Bids received after the time for opening of bids will be treated in accordance with the provisions of GP-2.12.

GP-2.09 COMMUNICATIONS AND INTERPRETATIONS— PRIOR TO BID OPENING

Any information regarding the requirements or the interpretation of any provision of the General Provisions, Special General Provisions, Specifications or any part of the bidding documents shall be requested, in writing, from the procurement officer, and delivered no later than three (3) days prior to the scheduled date of bid opening. Responses to questions or inquiries having any material effect on the bids shall be made by written addenda, or by written notice sent to all prospective bidders. **DO NOT MAKE VERBAL INQUIRIES.**

Any verbal interpretations or oral pre-bid statements made by County employees or their representatives shall not be binding upon the County.

Pre-bid conferences may be conducted by the Department of Public Works. If they are not to be conducted, notice of the same will be contained in the Invitation for Bids.

GP-2.10 AMENDMENTS TO INVITATIONS FOR BIDS

- (a) Form. Pre-bid amendments shall be identified as Addenda and shall

require that the Bidder acknowledge receipt of all addenda issued. The addenda shall reference the portion of the proposed contract it amends. Any addenda shall be issued in writing by the Department of Public Works.

- (b) **Distribution.** Addenda shall be sent to all purchasers of Contract Documents.
- (c) **Timeliness.** Addenda shall be distributed to prospective bidders to allow a reasonable time to consider them in preparing their bids. If the distribution does not permit timely preparation, the bid receipt date shall be changed in the addenda or, if necessary, changed by telegram or telephone and confirmed in the addenda.

GP-2.11 PRE-OPENING MODIFICATION OR WITHDRAWAL OF BIDS

- (a) **Procedure.** Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids before the time and date set for bid opening. A telegraphic modification or withdrawal received by telephone from the receiving telegraph company office before the time and date set for bid opening shall be effective if the telegraph company confirms the telephone message by sending a written copy of the telegram showing that the message was received at the telegraph company's office before the time and date set for bid opening.
- (b) **Disposition of Bid Security.** If a bid is withdrawn in accordance with this regulation, the bid security, if any, shall be returned to the bidder.

GP-2.12 LATE BIDS, LATE WITHDRAWALS, AND LATE MODIFICATION

- (a) **Policy.** Any bid received at the place designated in the solicitation after the time and date set for receipt of bids is late. Any request for

withdrawal or request for modification received at the place designated in the solicitation after the time and date set for receipt of bids.

- (b) Treatment.** A late bid, late request for modification, or late request for withdrawal may not be considered. Late bids will be returned to the bidder unopened.

NOTE: Provision GP-2.12(b) does not apply to Federal Aid projects.

GP-2.13 OPENING AND RECORDING OF BIDS

Opening and Recording. Bids and modifications shall be opened publicly, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and such other information as is deemed appropriate shall be read aloud or otherwise made available. This information also shall be recorded at the time of bid opening. The bids shall be tabulated or a bid abstract made. The opened bid shall be available for public inspection at a reasonable time after bid opening but in any case before Contract award except to the extent the bidder designates trade secrets or other proprietary data to be confidential as set forth in COMAR 21. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid. Prices, makes, and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available at a reasonable time after bid opening but in any event before Contract award regardless of any designation to the contrary at the time of bid opening.

GP-2.14 MISTAKES IN BIDS

- (a) Mistakes Discovered Before Opening.** A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in GP-2.11.

(b) Confirmation of Bid. If the Director of Finance knows or has reason to conclude that a mistake may have been made, the Bidder may be required to confirm the bid. Situations in which confirmation may be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn upon written approval of the Director of Public Works if any of the following conditions are met:

(1) If the mistake and intended correction are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

(2) A bidder may be permitted to withdraw a low bid if:

(a) A mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or

(b) The bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.

(c) Mistakes Discovered After Award. Mistakes may not be corrected after award of the contract except when the Director of Public Works determines that it would be unconscionable not to allow the mistake to be corrected. Changes in price are not permitted.

(d) Determination Required. When a bid is corrected or withdrawn, or correction or withdrawal is denied, the Engineer shall prepare a determination showing that the relief was granted or denied in accordance with these General Provisions.

GP-2.15 MINOR IRREGULARITIES

- (a) **General.** Minor irregularities in bids, as defined below, may be waived if the Director of Finance of Baltimore County determines that it shall be in the County's best interest. The Director of Finance of Baltimore County may either give a bidder an opportunity to cure any deficiency resulting from a minor irregularity in its bid, or waive the deficiency where it is to the County's advantage to do so.

When at any public opening of bids, a bid appears to be irregular, as herein specified, this fact may be announced when read. Said bid shall be read as other bids and then referred to the Director of Public Works of Baltimore County for consideration and appropriate action thereon in accordance with these General Provisions, Law and Regulation.

A minor irregularity is one which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation of a bid or proposal from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to other bidders or offerors. The defect or variation in the bid or proposal is immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial or negligible when contrasted with the total cost or scope of the supplies or services being procured and the intent and meaning of the entire bid or proposal is clear.

GP-2.16 CANCELLATION OF INVITATIONS FOR BIDS

- (a) Before opening of bids a solicitation may be canceled in whole or in part when the County determines this action is fiscally advantageous or otherwise in its best interest.
- (b) When a solicitation is canceled before bid opening, the bids shall be returned to the vendors submitting them and notice of cancellation shall be included.

GP-2.17 REJECTION OF INDIVIDUAL BIDS OR PROPOSALS

- (a)** Any bid may be rejected in whole or in part when it is in the best interest of the County to do so.

- (b)** Reasons for rejection of a bid may include but are not limited to:
 - (1)** The bid is not responsive i.e., it does not conform in all material respects to the solicitation.
 - (2)** Unreasonable price.

 - (3)** The bidder submitting the bid is determined to be nonresponsible. A determination of nonresponsibility may be made for, but is not limited to, any of the following reasons:
 - (a)** Bidder debarred or ineligible and period of debarment or ineligibility not expired.

 - (b)** The unit prices contained in a bid are unbalanced.

 - (c)** Evidence of collusion among bidders.

 - (d)** Inadequate quantity and/or quality of experience, plant, equipment, financing, manpower or other resources required to perform the Contract.

 - (e)** Bidder's workload which, in the judgement of the Administration, might hinder or prevent the prompt completion of the subject work if awarded.

 - (f)** Default by the bidder on other Contracts.

 - (g)** Failure to pay or satisfactorily settle all reasonable and just bills due for labor and material on prior or current Contracts.

 - (h)** The same person has an interest in more than one bid on a

Contract exclusive of being named by another bidder as a subcontractor.

- (i) Failure to perform satisfactorily on other Contracts awarded, and the conditions leading to unsatisfactory performance remain unresolved.
 - (j) Any other reason affecting the bidder's ability to perform, or record of business integrity.
 - (k) Bidder not otherwise qualified and eligible to receive an award under applicable laws and regulations.
- (4) The bidder or offeror fails to supply information to the procurement officer promptly, after notification from the procurement officer that such information is required in connection with a determination to be made pursuant to this GP-2.17.

GP-2.18 REJECTION OF ALL BIDS

- (a) After opening of bids or proposals but before award, all bids or proposals may be rejected in whole or in part when the procurement officer, with the approval of the agency head or his designee, determines that this action is fiscally advantageous or otherwise in the County's best interest.
- (b) A notice of rejection of all bids shall be sent to all vendors that submitted bids, and bids which have been opened shall be retained by the Administration.

GP-2.19 BID EVALUATION AND AWARD

- (a) **General.** The Contract is to be awarded to the responsible and responsive bidder whose bid meets the requirements and evaluation criteria set forth in the Invitation for Bids, and is either the lowest bid price or lowest evaluated bid price.

- (b) Determination of Lowest Bidder.** Bids shall be evaluated to determine which bidder offers the lowest cost to the County in accordance with the evaluation criteria set forth in the Invitation for Bids.

Except as otherwise provided under GP-2.14 Mistakes in Bids:

- (1) The unit price will govern in the event of a discrepancy between the unit price bid and the extended price (product of unit price multiplied by the quantity).
- (2) The sum of the extended prices will govern in the event of a discrepancy between the total lump sum bid and the extended prices.
- (3) The written words will govern in the event of a discrepancy between the prices written in words and the prices written in figures.
- (4) If a unit price has been omitted, the unit price will be determined by dividing the extended price by the quantity.

The Administration reserves the right to make the award by item, or groups of items, or total bid if it is in the best interest of the County to do so unless the bidder specifies in his bid that a particular or progressive award is not acceptable.

- (c) Award.** Upon determination of the lowest bidder, review of the bid for responsiveness, and satisfaction that the bidder is responsible, the Contract may be awarded to that bidder. A Contract may be awarded to a bidder offering a higher quality item than that designated in the Invitation for Bids if that bidder is also the lowest responsive and responsible bidder.

GP-2.20 TIE BIDS

- (a) Definition.** Tie bids are responsive bids from responsible bidders that are identical in price, terms and conditions and which meet all

the requirements and evaluation criteria set forth in the Invitation for Bids.

- (b) **Award.** If identical low bids are received from an in-State and out-of-state bidder, the award shall be made to the in-State bidder. If identical low bids are received from in-State bidders or from out-of-state bidders, a drawing shall be conducted, and a witness shall be present to verify and certify the result.

GP-2.21 Reserved

GP-2.22 MULTIPLE OR ALTERNATE BIDS

Unless multiple or alternate bids are requested in the solicitation, these bids may not be accepted. However, if a bidder clearly indicates a base bid, it shall be considered for award as though it were the only bid submitted by the bidder.

GP-2.23 BID PROTESTS

A bid protest must be in writing and filed with the procurement officer. Oral objections, whether or not acted on, are not pro-tests.

(a) Time for Filing.

- (1) A bid protest shall be filed not later than three (3) business days after the opening of bids.
- (2) A protest based on alleged improprieties in the solicitation which are apparent before the bid opening or the closing date for receipt of initial proposals shall be filed not later than five (5) business days before the opening date.

(b) Content of Written Protest.

- (1) Name and address of protestor.
- (2) Bid or Contract number.
- (3) Reasons for protest.
- (4) Supporting exhibits, evidence or documents to support claim.

**GP - SECTION 3
AWARD AND EXECUTION OF CONTRACT**

GP-3.01 AWARD OF CONTRACT (See GP-2.19)

Written notice of award shall be sent to the successful bidder. A Notice of Award may be rescinded at any time prior to execution of the Contract by the Administrator.

- (a) The award of the Contract, if it be awarded, shall be within 90 calendar days after the opening of the Proposal, or as stated in the proposal, and will be to the lowest responsive, responsible Bidder whose bid complies with all the requirements prescribed. The successful bidder will be notified by letter, mailed to the address shown on this Proposal, that his bid has been accepted and that he has been awarded the Contract.
- (b) In all contracts jointly bid, all contractors will be held jointly and severally responsible for the performance of the entire contract.
- (c) In time of National Emergency, cancellation of award will be without any liability against the County. At all other times, liability will be limited to invoiced costs of materials, not reasonably marketable, which were delivered or in transit prior to receipt of Notice of Cancellation by the successful Contractor. All materials paid for will be the property of the County. No anticipated profits will be paid.

GP-3.02 RETURN OF PROPOSAL GUARANTY

All proposal guaranties, except those of the three lowest bidders, will be returned immediately following opening and the review of the proposals. The guaranty of the three lowest bidders will be returned following the execution of the Contract and approval by the Board, if required. The Contractor has the right to substitute a bid bond for other bid security at any time prior to return of the proposal guaranty.

GP-3.03 PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS

- (a) Acceptable security for performance and payment bonds shall be in the form as provided with the proposal.

- (b) **Performance and Payment Bonds.** A performance and payment bond shall be required for all construction Contracts in excess of twenty-five thousand dollars (\$25,000), each in the amount equal to at least 100 percent of the Contract price. The bonds shall be delivered by the bidder to the Administration no later than the time the Contract is to be executed. If the bidder fails to deliver the required bonds, his bid shall be rejected, his bid security shall be enforced, and award of the Contract may be made to the next lowest responsive and responsible bidder.

GP-3.04 EXECUTION OF CONTRACT

After a Notice of Award has been issued to a bidder, a Contract between the County and the Bidder receiving the Award shall be deemed to be in existence. The Contractor shall then obtain the formal contract form and the appropriate forms for the Payment and Performance Bonds (if any) from the County. The Bidder will then execute the contract form and return same, together with fully executed Payment and Performance Bonds (if any), to the County within ten (10) business days after receipt of Notice of Award. After receipt of properly executed contract form and Payment and Performance Bonds (if any) the County will execute the Contract within 30 calendar days and forward the Bidder a copy. In the event the County fails to

execute the Contract within the 30-day period, the Bidder will have, as its sole remedy, the option to declare the Contract terminated or accept a further extended period for execution by the County.

GP-3.05 FAILURE TO EXECUTE CONTRACT

Failure of the bidder to execute the Contract and file acceptable security as defined in GP-3.03 within the time aforesaid shall be just cause for the annulment of the award and the forfeiture of the proposal guaranty which shall become the property of the County, not as a penalty but in liquidation of damages sustained. Award may then be made to the next lowest responsive, responsible bidder or the work may be readvertised and constructed under Contract or otherwise, as the Administration may decide.

GP - SECTION 4 SCOPE OF WORK

GP-4.01 INTENT OF CONTRACT

- (a)** The Contractor shall (within specified tolerances) perform all work in accordance with the lines, grades, typical cross sections, dimensions, and other data shown on the Plans or as modified by written orders including the furnishing of all materials, implements, machinery, equipment, tools, supplies, transportation, labor, and all other things necessary to the satisfactory prosecution and completion of the project in full compliance with the Contract requirements.
- (b)** The documents composing the Contract Documents are intended to be complementary, and to describe the construction and completion of the work. Anything mentioned in the Specifications and not shown on the Contract drawings, or shown on the Contract drawing and not mentioned in the Specifications shall be of like effect as if it is shown or mentioned in both.

- (c) Omissions from the drawings or Specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and Specifications or which are customarily performed shall not relieve the Contractor from performing such omitted or misdescribed details of work, but they shall be performed as if fully and correctly set forth and described in the drawings and Specifications. The Engineer shall consider modifications of the Contract Proposal and postponement of Bid Opening as may best serve all interested parties where notice of apparent omissions is made forty-eight (48) hours before the hour prescribed for bid opening. This is not to be construed as a limitation on the Engineer. If justified, the Engineer may institute contract modifications or Change Orders for additional or extra work which was not anticipated and shown on the drawings or described in the contract documents.

GP-4.02 GENERAL PROVISIONS CONTROLLING

In the event of a conflict between these General Provisions and any other provision of the Contract Documents, these General Provisions shall prevail unless such other provision expressly provides to the contrary.

GP-4.03 ENTIRE CONTRACT

The Contract Documents represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or agreements either written or oral.

GP-4.04 VARIATIONS IN ESTIMATED QUANTITIES

Where the quantity of a major contract item in this Contract is an estimated quantity and where the actual quantity of such pay item varies more than 25 percent above or below the estimated quantity stated in this Con-

tract, an equitable adjustment in the Contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 125 percent or below 75 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the procurement officer shall, upon receipt of a written request for an extension of time within 10 days from the beginning of the delay, or within a further period of time which may be granted by the procurement officer before the date of final settlement of the Contract, ascertain the facts and make the adjustment for extending the completion date as in his judgment the findings justify.

GP-4.05 DIFFERING SITE CONDITIONS

- (a)** The Contractor shall promptly, and before such conditions are disturbed, notify the procurement officer in writing of:
 - (1)** Subsurface or latent physical conditions at the site differing materially from those indicated in this Contract; or
 - (2)** Unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. The procurement officer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in writing accordingly.
- (b)** No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above; provided however, the time prescribed therefor may be extended by the County.
- (c)** No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

GP-4.06 CHANGES

- (a) The procurement officer may unilaterally, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes:
- (1) In the Specifications (including drawings and designs);
 - (2) In the method or manner of performance of the work;
 - (3) In the County-furnished facilities, equipment, materials, services, or site; or
 - (4) Directing acceleration in the performance of the work.
- (b) Any other written order or an oral order including a direction, instruction, interpretation or determination from the procurement officer that causes any such change, shall be treated as a change order under this clause, provided that the Contractor gives the procurement officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

The Engineer will consider the opinion given and all facts at hand or that can be readily obtained, without unduly delaying the project.

1. Where the Engineer finds the matter presented would cause a difference in cost or time, he will consider alternatives to minimize impacts in cost or time in the mutual interest of both parties and commit his decision to writing.
2. Where the Engineer does not find in favor of the opinion presented, he shall commit his instructions to writing and direct the Contractors and the Engineer's staff to proceed as if a Force Account were ordered to provide a record for later re-evaluation as to merits and adjustments.
3. Both parties are duty-bound to minimize the accumulation of

expenses during the time the Engineer requires to complete the evaluation required above. Delay costs and time, to the extent judged reasonable and unavoidable, are to be considered in the equitable adjustment, if any.

- (c) Except as herein provided, no order, statement, or conduct of the procurement officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.
- (d) Subject to paragraph (f), if any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this Contract, whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly. Provided, however, that except for claims based on defective specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required; and provided further, that in the case of defective Specifications for which the County is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective Specifications.
- (e) If the Contractor intends to assert a claim for an equitable adjustment under this clause, he shall, within 30 days after receipt of a written change order under (a) above or the furnishing of written notice under (b) above, submit to the Engineer a written statement setting forth the general nature and monetary extent of such claim and his position relative to time, unless this period is extended by the County. The statement of claim hereunder may be included in the notice under (b) above.
- (f) Each Contract modification or change order that affects Contract price shall be subject to the prior written approval of the procurement officer and other appropriate authorities and to prior certification of the appropriate fiscal authority of fund availability and the effect of the modification or change order on the project budget or the total construction cost. If, according to the certification of the

fiscal authority, the Contract modification or change order will cause an increase in cost that will exceed budgeted and available funds, the modification or change order may not be made unless sufficient additional funds are made available or the scope of the project is adjusted to permit its completion within the project budget.

- (g) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

GP-4.07 NEGOTIATED PAYMENT PROVISION

Reserved

GP-4.08 UNAUTHORIZED WORK

Work done contrary to or regardless of the instructions of the procurement officer; work done beyond the lines and grades shown on the Contract Drawings, or as given; or any extra work done without written authority will be considered as unauthorized and at the expense of the Contractor and will not be measured or paid for. Work so done may be ordered removed and/or replaced at the Contractor's expense.

GP-4.09 FINAL CLEAN UP

Upon completion of the work specified in the Contract and before final payment will be made, the construction area and all other adjoining areas, other than those owned by him, occupied by the Contractor during the construction of said Contract shall be cleaned of all surplus and discarded materials, spilled materials, excess materials left deposited on the permanent work as a result of the Contractor's operations, false work, and rubbish and temporary structures and buildings, that were placed thereon by the Contractor. The adjoining areas mentioned above, outside the normal pay limits for seeding, will be reshaped, seeded and mulched, or otherwise restored as directed by the procurement officer at the Contractor's expense.

GP-4.10 WARRANTY OF CONSTRUCTION

- (a) In addition to any other warranties at law or set out elsewhere in this Contract, the Contractor warrants for one year after final acceptance of the work, that work performed under this Contract conforms to the Contract requirements and is free of any defect of equipment, material or design furnished, or workmanship performed by the Contractor or any of his subcontractors or suppliers at any tier. With respect to any part of the work which the County takes possession of prior to final acceptance, such warranty shall continue for a period of one year from the date the County takes possession. Under this warranty, the Contractor shall remedy at his own expense any such failure to conform or any such defect. In addition, the Contractor shall remedy at his own expense any damage to County owned or controlled real or personal property, when that damage is the result of the Contractor's failure to conform to Contract requirements or any such defect of equipment, material, workmanship, or design. The Contractor shall also restore any work damaged in fulfilling the terms of this clause. The Contractor's warranty with respect to work repaired or replaced hereunder will run for one year from the date of such repair or replacement.
- (b) The County shall notify the Contractor in writing within a reasonable time after the discovery of any failure, defect, or damage.
- (c) Should the Contractor fail to remedy any failure, defect, or damage described in (a) above within a reasonable time after receipt of notice thereof, the County shall have the right to replace, repair, or otherwise remedy such failure, defect, or damage at the Contractor's expense.
- (d) In addition to the other rights and remedies provided by this clause, all subcontractors', manufacturers', and suppliers' warranties expressed or implied, respecting any work and materials shall, at the direction of the County, be enforced by the Contractor for the benefit of the County. In such case if the Contractor's warranty under (a) above has expired, any suit directed by the County to enforce a subcontractor's, manufacturer's or supplier's warranty shall be at

the expense of the County. The Contractor shall obtain any warranties which the subcontractors, manufacturers, or suppliers would give in normal commercial practice.

- (e) If directed by the procurement officer, the Contractor shall require any such warranties to be executed in writing to the County.
- (f) Notwithstanding any other provision of this clause, unless such a defect is caused by the negligence of the Contractor or his subcontractors or suppliers at any tier, the Contractor shall not be liable for the repair or any defects of material or design furnished by the County nor for the repair of any damage which results from any such defect in County furnished material or design.
- (g) The warranty specified herein shall not limit the County's rights under GP-5.13 Acceptance clause of this Contract.

GP - SECTION 5 CONTROL OF THE WORK

GP-5.01 AUTHORITY OF THE PROCUREMENT OFFICER

- (a) The procurement officer shall decide all questions which may arise as to the quality and acceptability of materials furnished and work performed and as to the rate of progress of said work; all questions which may arise as to the interpretation of any or all Plans and Specifications; and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor.
- (b) The procurement officer shall determine the amount and quantity of work performed and materials which are to be paid for under the Contract.
- (c) The procurement officer shall have the authority to suspend the work wholly or in part due to the failure of the Contractor to carry out provisions of the Contract.

GP-5.02 CONFORMITY WITH CONTRACT REQUIREMENTS

All work performed and all materials furnished shall be in conformity with the Contract requirements.

In the event the procurement officer finds the materials or the finished product in which the materials are used or the work performed are not in reasonably close conformity with the Contract requirements and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

In the event the procurement officer finds the materials or the finished product in which the materials are used are not in conformity with the Contract requirements but that acceptable work has been produced, he shall then make a determination if the work shall be accepted. In this event, the procurement officer will document the basis of acceptance by a change order which will provide for an appropriate adjustment in the Contract price. Any action taken pursuant to this paragraph may not result in an increase of the Contract price.

GP-5.03 DISCREPANCIES IN THE CONTRACT DOCUMENTS

In the event the Contractor discovers any discrepancies in the Contract Documents, he shall immediately notify the procurement officer. The procurement officer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Contract.

GP-5.04 COOPERATION BY CONTRACTOR

The Contractor will keep available on the project site at all times one complete set of Contract Documents.

The Contractor shall give the work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the procurement officer and his inspectors in every way possible.

The Contractor shall assign to the Contract as his agent, a competent superintendent capable of communicating in English and capable of reading and thoroughly understanding the Contract Documents and thoroughly experienced in the type of work being performed, who shall receive instructions from the procurement officer or his authorized representatives. The superintendent shall have full authority to execute the order or directions of the procurement officer without delay, and to promptly supply such materials, equipment, tools, labor and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work sublet. Said superintendent shall be on the project site at all times when the work is in progress.

GP-5.05 COOPERATION WITH UTILITIES

The Contractor shall have responsibility for notifying all affected utility companies before performing any work on their utilities and shall cooperate with them. All damage to utility facilities caused by the Contractor's operations shall be the responsibility of the Contractor.

(a) MISS UTILITY

The Contractor shall notify utility companies and their public agencies at least 48 hours before digging. ONE CALL will reach each of the following companies and organizations that may have facilities in the proposed work area:

AT&T of Maryland
Baltimore Gas & Electric
Bell Atlantic
Bonnie Ridge Apartments
City of Baltimore, Department of Public Works
Comcast Cable TV
Colonial Pipeline
Columbia Gas Transmission
Franklin Square Hospital
MCI Access Trans SVC
MCI Telecommunications
Metro Fiber Systems of Baltimore
Mid Atlantic Cable

Rosewood Center
Teleport Communications Group
Transcontinental Gas
Williams Telecommunications.

The UTILITY SERVICE PROTECTION CENTER (MISS UTILITY: (800 257-7777) shall also be called between 7:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Emergencies will be processed promptly on a 24-hour basis.

Other utilities which are non-participants in MISS UTILITY may also be encountered. It is the Contractor's responsibility to identify all utilities, to inform the proper authority of work near the utility line, and to exercise caution at all times in regard to them.

(b) FIRE HYDRANTS

The Contractor shall notify the Fire Department, Fire Dispatch Liaison Officer (410 887-4592) prior to starting any work involving the removal or relocation or existing fire hydrants.

(c) SANITARY SEWERS

To protect against accidental clogging, existing sanitary sewer channels shall be covered within manholes, as directed by the Engineer, prior to any grubbing or grading operations. This will not be a separate pay item, but shall be included in the cost of other items bid.

(d) ADDITIONAL COSTS

The cost of charges for marking the locations of water and sewer utilities by the organizations which are part of the MISS UTILITY program shall be included as an incidental cost in the Contractor's bid.

It is understood and agreed that the Contractor has considered in his bid all of the permanent and temporary utility appurtenances in their present or relocated positions and that no additional compensation will be allowed for delays, inconvenience, or damage sus-

tained by him due to any interference from the said utility appurtenances or the operation of moving them.

GP-5.06 COOPERATION BETWEEN CONTRACTORS

- (a) Separate Contractors on adjoining or overlapping work shall cooperate with each other as necessary. Such cooperation shall include:
 - (1) Arrangement and conduct of work;
 - (2) Storage and disposal of materials, etc., by each in such manner as to not unnecessarily interfere with or hinder the progress of the work being performed by other Contractors. Contiguous work shall be joined in an acceptable manner.
- (b) The Administration and Department shall have the right, at any time, to Contract for and perform other work on, near, over or under the work covered by this Contract. In addition, other work may be performed under the jurisdiction of another Administration or County agency. In such cases, when a dispute arises among Contractors, the procurement officer will decide which of the procurement officers will have jurisdiction over said dispute. The Contractor shall cooperate fully with such other Contractors and carefully fit his own work to such other work as may be directed by the procurement officer.
- (c) The Contractor agrees that in the event of dispute as to cooperation the procurement officer will act as referee. The Contractor agrees to make no claims against the Administration for any inconvenience, delay or loss experienced by them because of the presence and operations of other Contractors.

GP-5.07 AUTHORITY AND DUTIES OF INSPECTORS

Inspectors shall be authorized to inspect all work done and all material furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication or manufacture of the materials to be used. The

inspector is not authorized to revoke, alter or waive any requirements of the Contract, nor is he authorized to approve or accept any portion of the complete project. He is authorized to call the attention of the Contractor to any failure of the work or materials to conform to the Contract. He shall have the authority to reject materials or suspend the work until any questions at issue can be referred to and decided by the procurement officer. Inspectors shall perform their duties at such times and in such manner as will not unnecessarily impede progress on the Contract.

The inspector shall in no case act as foreman or perform other duties for the Contractor, nor interfere with the management of the work by the latter. Any advice, instruction, direction or other order which the inspector may give the Contractor shall not be construed as binding the procurement officer in any way, or releasing the Contractor from fulfilling all of the terms of the Contract.

Where there is disagreement between the Contractor (or his representative) and the inspector, such as refusal by the Contractor to use properly approved material, performing work not in compliance with Plans and Specifications, and/or refusing to suspend work until problems at issue can be referred to and decided by the procurement officer, the inspector will immediately direct the procurement officer's attention to the issues of disagreement. If the Contractor still refuses to make corrections, comply or suspend work, the procurement officer will prepare and deliver in writing to the Contractor, by mail or otherwise, a written order suspending the work and explaining the reason for such shutdown. As soon as the inspector is advised of the delivery of the shutdown order, the inspector shall immediately leave the site of the work and any work performed during the inspector's absence will not be accepted or paid for and may be required to be removed and disposed of at the Contractor's expense.

GP-5.08 INSPECTION OF WORK

All materials and each part or detail of the work shall be subject at all times to inspection by the procurement officer or his authorized representative, and the Contractor will be held strictly to the materials, workmanship, and the diligent execution of the Contract. Such inspection may include mill,

plant or shop inspection, and any material furnished under the Contract is subject to such inspection. The procurement officer, or his representative, shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the procurement officer requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standards required by the Contract. Should the work thus exposed or examined prove acceptable, adjustments in Contract time and price will be made pursuant to Section GP-4.06 for the uncovering or removing, and the replacing of the covering or making good of the parts removed. Should the work so exposed or examined prove unacceptable, the uncovering, or removing and replacing, shall be at the Contractor's expense.

When the United States Government or any railroad, corporation or other agency is to pay a portion of the cost of the work covered by this Contract, their respective representatives shall have the right to inspect the work.

GP-5.09 REMOVAL OF DEFECTIVE WORK

All work and materials which do not conform to the requirement of the Contract will be considered unacceptable, unless otherwise determined acceptable under the provisions in GP-5.02.

Any defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist shall be removed and replaced by work and materials which shall conform to the Specifications or shall be remedied otherwise in an acceptable manner authorized by the procurement officer.

Upon failure on the part of the Contractor to comply promptly with any order of the procurement officer, made under the provisions of these General Provisions the procurement officer shall have authority to cause defective work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs from any moneys due or to become due the Contractor under this Contract.

GP-5.10 LOAD RESTRICTIONS

- (a) The Contractor shall comply with all State and local requirements pertaining to speed, size and weight of motor vehicles.
- (b) The Administration may indicate in the Contract load restrictions on any road or structure within the vicinity of the project.
- (c) The Contractor shall take into account any and all posted bridges, the crossing of which might be contemplated by the work on the Contract. No loads in excess of posted limits will be allowed in the prosecution of the work on any Contract, unless the required permits are obtained from the appropriate State and local governmental agencies.
- (d) The Contractor shall consider possible detrimental effects of operating heavy paving and grading equipment contiguous to retaining walls, pipe culverts, arches, forms for concrete work as well as construction existing prior to this Contract.
- (e) The procurement officer shall have the right to limit passage of heavy equipment (plus loads) when such passage or usage is causing apparent or visible damage to embankments, paving, structures or any other property.
- (f) Within the Baltimore City limits, the Department of Transit and Traffic of the City of Baltimore has jurisdiction for oversize and overweight vehicle movements. Permits are obtainable from the Transit and Traffic Department.

GP-5.11 MAINTENANCE OF WORK DURING CONSTRUCTION

- (a) The Contractor shall maintain the work during construction and until acceptance. This maintenance shall constitute continuous and effective work prosecuted as required with adequate equipment and forces to the end that all parts of the work be kept in satisfactory condition at all times.

- (b) Particular attention shall be given to drainage, both permanent and temporary. The Contractor shall use all reasonable precautionary measures to avoid damage or loss that might result from accumulations and concentrations of drainage water, and material carried by such water and such drainage shall be diverted or removed when necessary to prevent damage to excavation, embankments, surfacing, structures or property. Suitable measures shall be taken by the Contractor to prevent the erosion of soil in all construction areas where the existing ground cover has been removed.
- (c) All cost of maintenance work during construction and before final acceptance shall be included in the price bid and the Contractor will not be paid additional amount for such work, except as otherwise provided.
- (d) In the event that the Contractor's work is ordered shutdown for failure to comply with the provisions of the Contract, the Contractor shall maintain the entire project as provided herein, and provide such ingress and egress for local residents or tenants adjacent to the project site, for tenants of the project site, and for the general public as may be necessary during the period of suspended work or until the Contract has been declared in default.
- (e) On projects where traffic flow is maintained, the Contractor shall be responsible for repair of all traffic damages to the work, either partially or totally completed, until such time as the work is accepted by the procurement officer. Responsible, as used here, shall mean the responsibility for restoration, and the cost thereof unless otherwise expressly provided for in the Special Provisions.

GP-5.12 FAILURE TO MAINTAIN ENTIRE PROJECT

Failure on the part of the Contractor, at any time, to comply with the provisions of GP-5.11 above, will result in the procurement officer immediately notifying the Contractor to comply with the required maintenance provi-

sions. In the event that the Contractor fails to remedy unsatisfactory maintenance within 24 hours after receipt of such notice, the procurement officer will immediately proceed with adequate forces and equipment to maintain the project, and the entire cost of this maintenance will be deducted from moneys due the Contractor.

GP-5.13 ACCEPTANCE FOR MAINTENANCE

- (a) Partial Acceptance for Maintenance.** If at any time during the performance of the work the Contractor substantially completes a unit or portion of the work, he may request the procurement officer to make final inspection of that unit. If the procurement officer finds upon inspection that the unit has been satisfactorily completed in compliance with the Contract, he may accept that unit as being completed and the Contractor may be relieved of further maintenance responsibility for that unit. Generally, partial acceptance for maintenance will only be considered when the Administration feels that such action is in the public interest. Such partial acceptance for maintenance shall in no way void or alter any of the terms of the Contract.
- (b) Final Acceptance for Maintenance.** Upon due notice from the Contractor of presumptive completion of the entire project, the procurement officer shall make a construction inspection and if at such inspection all construction provided for and contemplated by the Contract is found completed, such inspection shall constitute the final inspection and the procurement officer shall make the acceptance for maintenance as of that date, and the Contractor shall be notified of such acceptance in writing. After acceptance for maintenance the Administration will assume responsibility for maintenance except where otherwise provided by the Contract.
- (c)** If, however, at any construction inspection any work in whole or in part is found unsatisfactory, the procurement officer shall give the Contractor the necessary instructions as to the work required for final completion and acceptance for maintenance. The Contractor forthwith shall comply with and execute such instructions. Upon

completion of such work, another inspection shall be made which shall constitute the final inspection if the said work is found to have been completed satisfactorily. In such event, the procurement officer shall make the acceptance for maintenance and the Contractor shall be notified as aforesaid. After final acceptance for maintenance, the Administration will assume responsibility for maintenance except where otherwise provided by the Contract.

- (d) Unless otherwise provided in this Contract, acceptance by the County shall be made as promptly as practicable after completion and inspection of all work required by this Contract, or that portion of the work that the procurement officer determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, such gross mistakes as may amount to fraud or the County's rights under any warranty or guarantee or any claims or counter claims reserved by the County.

GP-5.14 CLAIMS

Unless a shorter period is prescribed by law or elsewhere in this Contract:

- (a) The Contractor shall file a written notice of claim for extension of time, equitable adjustment, extra compensation, damages, or any other matter (whether under or relating to this Contract) with the procurement officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier.
- (b) Contemporaneously with or within 30 days of the filing of a notice of a claim, but no later than the date that final payment is made, a Contractor shall submit the claim to the appropriate procurement officer. The claim shall be in writing and shall contain:
 - (1) An explanation of the claim, including reference to all Contract provisions upon which it is based;
 - (2) The amount of the claim;
 - (3) The facts upon which the claim is based;

- (4) All pertinent data and correspondence that the Contractor relies upon to substantiate the claim; and
 - (5) A certification by a senior official, officer, or general partner of the Contractor or subcontractor, as applicable, that, to the best of the person's knowledge and belief, the claim is made in good faith, supporting data are accurate and complete, and the amount requested accurately reflects the Contract adjustment for which the person believes the Administration is liable.
- (c) The claim shall also contain itemized supporting data for the elements of cost the Contractor claims to have incurred or it will incur. This data shall be in sufficient detail to permit analysis by the Administration of material, labor, equipment, subcontract and overhead costs as well as profit and shall include all work covered by the claim, whether deleted, added, or changed. Subcontract cost shall be supported by similar detailed data.
- (d) A notice of claim or a claim that is not filed within the prescribed time shall be dismissed.

GP-5.15 DISPUTES

- (a) Except as otherwise may be provided by law, all disputes arising under or as a result of a breach of this Contract that are not disposed of by mutual agreement shall be resolved in accordance with this clause.
- (b) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of Contract terms, or other relief, arising under or relating to this Contract.

A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, if the submission subsequently is not acted upon in a reasonable time, or

is disputed either as to liability or amount, it may be converted to a claim for the purpose of this clause.

- (c) Any claim by the Contractor shall be made in writing and submitted to the Chief of the Division of Construction Contracts Administration for decision. Any claim by the County shall be decided in like manner.
- (d) When a claim cannot be resolved by mutual agreement, the Contractor shall submit a written request for final decision to the procurement officer. The written request shall set forth all the facts surrounding the controversy.
- (e) The Contractor, at the discretion of the procurement officer, may be afforded an opportunity to be heard and to offer evidence in support of his claim.
- (f) The Chief of the Division of Construction Contracts Administration shall decide any and all claims. The Chief of the Division of Construction Contracts Administration's decision shall be issued within ninety (90) days on matters of less than \$50,000.00 and one hundred eighty (180) days on matters of \$50,000.00 or more. The written decision of the Chief of the Division of Construction Contracts Administration shall be final and binding unless disputed in writing to the Director of Public Works within thirty (30) days of delivery to the parties. The Director of Public Works will review the written dispute submitted by the Contractor to assure all reasonable attempts have been made to resolve the dispute.
- (g) Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the procurement officer's decision.
- (h) When the Director of Public Works is satisfied all efforts at the Department level have been made to resolve the dispute, it shall be resolved as follows:

- (1) Subject to, and without in any way enlarging or limiting the other provisions of the Contract, the parties to any agreement which adopts by reference these Specifications, do appoint the County Administrative Officer as an administrative hearing officer pursuant to Article 25A, "Chartered Counties of Maryland", Provisions of the Annotated Code of Maryland.

- (2) The parties further grant the County Administrative Officer the right to delegate this responsibility and authority in writing to a County official who is a Registered Professional Engineer, independent of the Division of Construction Contracts Administration, or to any other County official.

- (3) For disputes involving \$10,000 or more the decision of the "Administrative Hearing Officer" shall be final and binding on both parties, subject only to such appeals on the record as provided by Article 25A. For disputes involving less than \$10,000, the decision of the Administrative Hearing Officer shall be final and binding on both parties.

- (j) The Director of Public Works, serving as referee, will review the written dispute submitted by the Contractor to assure all reasonable attempts have been made to resolve the dispute.

GP - SECTION 6 CONTROL OF MATERIAL

GP-6.01 GENERAL

All materials shall meet all quality requirements of the Contract. In order to expedite the inspection and testing of the materials, the Contractor shall notify the procurement officer in writing of the sources from which he proposes to obtain all materials requiring approval, testing, inspection, or certi-

fication prior to incorporation into the work as soon as possible after receipt of notification of award of the Contract.

To expedite the approval of this Notice a list of Approved Sources of Supply is available through the Division of Construction Contract Administration. If all materials are to be supplied from the sources on this list, no written notification to that effect is required. If other sources are to be used, they shall be submitted for approval. It shall be the Contractor's responsibility to insure that all materials are supplied from approved sources. Once the source of concrete or bituminous concrete for exposed final surfaces has been selected, that source is to provide material for all construction of continuous surfaces on the entire project. Submittal of all sources of supply will still be required for projects involving State or Federal funding. The Engineer will inform the Contractor as to source acceptability as soon as possible.

GP-6.02 STORAGE AND HANDLING OF MATERIALS

Materials shall be so stored as to assure the preservation of their quality and acceptability for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the right-of-way or project site may be used for storage purposes and for the placing of the Contractor's plant and equipment; such storage areas must be restored to their original condition by the Contractor at his expense. Any additional space required must be provided by the Contractor at his expense.

Materials shall be handled in such a manner as to preserve their quality and acceptability for the work.

GP-6.03 UNACCEPTABLE MATERIALS

- (a) Materials represented by samples taken and tested in accordance with the specified tests and failing to meet required values shall be considered to be defective regardless of prior tests or approvals.

- (b) Unless otherwise allowed by the procurement officer as set forth below, defective materials shall be removed from the site with any tags, stamps or other markings implying conformance with Specifications removed or obliterated.
- (c) Where defects can be corrected, the Contractor may propose such corrective action as he deems appropriate to the procurement officer. The procurement officer may approve the corrective action but in so doing does not assume responsibility for the success thereof. Retests will be made to determine the acceptability of the material after corrective measures have been taken. No person other than the procurement officer may change any provision of the Specifications or the Contract without written authorization.
- (d) The cost of replacing, correcting and/or removal of defective material will be the responsibility of the Contractor.
- (e) The cost of repairing or replacing other materials damaged by the installation, correction and/or removal of defective materials will be the responsibility of the Contractor.

GP-6.04 ADMINISTRATION FURNISHED MATERIAL

The Contractor shall furnish all materials required to complete the work, except those specified to be furnished by the Administration. Materials furnished by the Administration will be delivered or made available to the Contractor at the point or points specified in the Special Provisions. The cost of handling and placing all materials, after they are delivered to the Contractor, shall be considered as included in the Contract price for the item in connection with which they are used.

The Contractor shall be held responsible for all material delivered to him, and deductions will be made from any moneys due him to make good any shortages and deficiencies, from any cause whatsoever, and for any damage which may occur after such delivery, and for any demurrage charges.

In cases where materials are supplied by the Administration and incorporated in the Contract work by the Contractor, materials inspection and acceptance will not be prerequisite for acceptance of the final product as the product pertains to these items.

GP - SECTION 7

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

GP-7.01 COMPLIANCE WITH LAWS

The Contractor hereby represents and warrants that:

- (a) It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- (b) It is not in arrears with respect to the payment of any moneys due and owing the State of Maryland, or any department or unit thereof, including, but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- (c) It shall comply with all Federal, State of Maryland and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- (d) All requirements set forth in Federal assistance instruments applicable to this Contract shall be satisfied.

GP-7.02 PERMITS AND LICENSES

- (a) The Contractor shall procure at his own expense such permits, licenses, insurances and governmental approval as may be necessary in order to comply with Federal, State of Maryland and local laws, ordinances and regulations in performance of the work. He shall further give notices necessary and incidental to the due and lawful prosecution of the work.

- (b) Federal permits from the U.S. Corps of Engineers, the Environmental Protection Agency, and/or the United States Coast Guard, for erection of structures in tidal waters will be obtained by the Administration, and the Contractor shall comply with the requirements of such permits. The cost incurred in compliance shall be incidental to and included in the price of the items bid. Any required Federal permits, however, desired by the Contractor for temporary structures such as docks, piers, anchorages, etc. must be applied for and obtained by the Contractor at his expense.

- (c) Fire hydrant permits must be obtained if water is required from a hydrant. No water is to be drawn from a public fire hydrant except through a meter. Applications shall be made through the Department of Permits and Development Management (PDM). All costs are considered incidental to the cost of items bid, with the following exceptions:
 - (1) The Department of Public Works will issue a meter for Fire Hydrant Utilization for charging, testing, or flushing new mains being constructed under a County contract. At the request of the Contractor within five (5) days of charging the lines the inspector will issue the meter application to the Contractor without cost and there will be no charge for water use recorded on the meter provided. Failure to return the meter in good condition, or utilization of the meter provided for any other purpose, will be grounds for assessment of associated costs against the Contractor as liquidated damages.)

 - (2) Cleaning and cement lining projects are exempt from this requirement.

- (d) A backflow valve must be used in drawing water from the metropolitan system for charging and testing new utilities.

GP-7.03 PATENTED DEVICES, MATERIALS AND PROCESSES

If the Contractor is required or desires to use any design, device, material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner and a copy of such agreement shall be filed with the Administration; if no such agreement is made or filed as noted, the Contractor and the surety shall indemnify and save harmless the County, 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, materials or process, or any trademark or copyright, and shall indemnify, protect and save harmless the County, its officers, agents and employees with respect to any claim, action, cost or judgment for patent, trademark or copyright infringement, arising out of purchase or use of materials, construction, supplies, equipment or services covered by this Contract.

GP-7.04 FEDERAL OR STATE PARTICIPATION

When the United States Government and or the State of Maryland pays all or any portion of the cost of a project, the work shall be subject to the inspection of the appropriate Federal or State agency. Such inspection shall in no sense make the Federal or State government a party to this Contract, and will not interfere in any way with the rights of either party hereinunder.

GP-7.05 CONSTRUCTION SAFETY AND HEALTH STANDARDS

It is a condition of this Contract, and shall be made a condition of each subcontract entered into pursuant to this Contract, that the Contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards and regulations (Title 29, Code of Federal Regulations, Part 1926, formerly Part 1518, as revised from time to time) promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standard Act, (83 Stat. 96) and under any construction

safety and health standards and regulations promulgated by the Commissioner of Labor and Industry in accordance with the Maryland Occupational Safety and Health Act, Article 89, Section 28 through 49A, inclusive, Annotated Code of Maryland (as the same may be amended from time to time).

The Contractor and each subcontractor shall permit inspection without delay and at any reasonable time on any premises where the work is being performed by a federal or state inspector authorized to investigate compliance with the above mentioned federal and state statutes and regulations.

The Contractor further agrees to correct any violations found to exist during such inspection within a reasonable time after the issuance of any citation, unless he contests the validity thereof through the appropriate administrative and judicial process.

GP-7.06 PUBLIC CONVENIENCE AND SAFETY

The Contractor at all times shall conduct the work in such a manner as to ensure the least practicable obstruction to all forms of traffic. The convenience of the general public, tenants, and of the residents along and/or adjacent to the improvement shall be provided for. Equipment and/or materials stored upon the project shall be placed so as to cause a minimum of obstruction to the public. Sprinkling shall be performed at the direction of the procurement officer. The Contractor shall, unless otherwise specified, provide and maintain in passable condition such temporary access, roads and bridges as may be necessary to accommodate traffic diverted from the project under construction, or using the project under construction and shall provide and maintain in a safe condition temporary approaches to, and crossings of the project. Existing facilities planned to be removed, but which might be of service to the public during construction are not to be disturbed until other and adequate provisions are made. Existing mailboxes shall be maintained or reset in positions accessible to the public and to mail deliveries during construction and subsequent to construction in their final locations in a satisfactory condition. On facilities occupied by railroad tracks, temporary platforms for the entrance and exit of passengers to and from the rail-

way cars shall be provided and maintained in an approved manner by the Contractor. Fire hydrants on or adjacent to the project shall be kept accessible to fire apparatus at all times, and no material or obstruction shall be placed within 15 feet of any such hydrant. All footways, gutters, sewer inlets and portions of the project adjoining the work under construction shall not be obstructed more than is absolutely necessary. Work closed down for the winter or at any other times shall be left entirely accessible at all points to fire apparatus.

GP-7.07 DETOURS

Detours may be indicated in the Contract Documents, or at the Contractor's request traffic may be detoured over approved routes along existing roads when acceptable to the Bureau of Highways and Equipment Maintenance. Detours over existing roads will be designated, marked and maintained by the Contractor.

GP-7.08 BARRICADES AND WARNING SIGNS

The Contractor shall provide, erect and maintain all necessary barricades, suitable and sufficient lights, danger signals, signs and other traffic control devices, and shall take all necessary precautions for the protection of the work and safety of the public. All highways and other Department facilities closed to vehicular traffic shall be protected by effective barricades, and obstructions shall be illuminated during hours of darkness with electric lights.

The Contractor shall erect warning signs in advance of any place on the project where operations may interfere with the use of the facility by vehicular traffic, and at all other points where the new work crosses or coincides with an existing roadway or traffic lane(s). Such warning signs shall be constructed and erected in accordance with the Manual on Uniform Traffic Control Devices, or as directed.

The Contractor shall furnish, erect and maintain warning and direction signs in the number required by the procurement officer and at locations designated by the procurement officer throughout the limits of the project.

For street and highway type traffic, the signs shall conform in every respect to the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways. Signs must be freshly painted and adequately reflectorized before being placed on any project. No work may be performed or begun unless an adequate number of signs of the proper category are in place.

In cases where the Contractor's sequence of operations results in grade differentials which would be hazardous to vehicular traffic the Contractor shall, at the direction of the procurement officer provide suitable substantial traffic barriers to the extent determined by the procurement officer.

GP-7.09 FLAGGING OF MOTOR VEHICLE TRAFFIC

For all construction Contracts requiring the flagging of motor vehicles licensed for operation on the highways of Maryland, said flagging shall be conducted as specified in the Manual on Traffic Control Devices for Streets and Highways.

GP-7.10 MAINTENANCE OF TRAFFIC

Unless otherwise noted in the Special Provisions, it shall be the Contractor's responsibility to maintain pedestrian and vehicular traffic safely, adequately and continuously on all portions of existing facilities affected by his work. In addition to existing facilities undergoing improvement, this also applies to crossroads, approaches, crossovers and entrances affected or made necessary by his work.

GP-7.11 PRESERVATION AND RESTORATION OF PROPERTY

- (a) The Contractor shall not enter upon public or private property (out-

side of the right-of-way or project area) for any purpose without obtaining written permission and he shall be responsible for the preservation of all public and private property, trees, monuments, signs and markers and fences thereon, and shall use every precaution necessary to prevent damage or injury thereto. The Contractor shall take suitable precaution to prevent damage to underground or overhead public utility structures; shall protect carefully from disturbances or damages all land monuments and property marks until the procurement office has referenced their locations.

- (b) The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work, resulting from any act, omission, neglect or misconduct in his manner or method of executing said work, or at any time due to defective work or materials, and said responsibility shall not be released until the work shall have been completed and accepted. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work or in consequence of the nonexecution thereof on the part of the Contractor, he shall restore, at his own expense, such property to a condition similar to, or equal to, that existing before such damage or injury, in an acceptable manner. In case of the failure on the part of the Contractor to restore such property or make good such damage or injury, the procurement officer may, upon 48 hours notice, proceed to repair, rebuild or otherwise restore such property as may be deemed necessary and the cost thereof will be deducted from any monies due or which may become due the Contractor under this Contract.

GP-7.12 LAND, AIR AND WATER POLLUTION

- (a) The Contractor shall incorporate all permanent erosion control features into the work at the earliest practicable time as required by the Contract Documents. Temporary pollution control measures will be used to correct conditions that develop during construction that

were not foreseen during design; that are needed prior to installation of permanent pollution control features; or that are needed temporarily to control erosion that develops during normal construction practices, but are not associated with permanent control features on the project.

- (b) The Contractor's attention is directed to the fact that temporary pollution control may include control measures outside the right-of-way or project site where such work is necessary as a direct result of project construction. The procurement officer shall be kept advised of all such off-site control measures taken by the Contractor. This shall not relieve the Contractor of the basic responsibilities for such work.
- (c) In case of failure on the part of the Contractor to control erosion, pollution or siltation, the procurement officer reserves the right to employ outside assistance or to use his own forces to provide the necessary corrective measures. All expenses incurred by the procurement officer in the performance of such duties for the Contractor shall be withheld from monies becoming due to the Contractor.
- (d) Contractors and suppliers must submit evidence to the Administration that the governing Federal, State of Maryland and local air pollution criteria will be met. This evidence and related documents will be retained by the Administration for on-site evaluation.

GP-7.13 RESPONSIBILITY FOR DAMAGE CLAIMS

- (a) The Contractor shall indemnify and save harmless the County and all of its representatives from all suits, actions, or claims of any character, including the cost of defense, brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the work or through the use of unacceptable materials in the construction of the improvement, or on account of any act or omission by the said Contractor, or as a result of faulty, inadequate or improper temporary drainage during construction, or on account of the use, misuse, storage or handling of explosives, or on account of any claims or amounts recov-

ered for any infringement of patent, trademark, or copyright, or from any claims or amounts arising or recovered under the Workmen's Compensation Laws, or any other State or local law, bylaw, ordinance, regulation, order or decree whether by himself or his employees or subcontractors. The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect or misconduct, in the manner or method of executing said work satisfactorily or due to the nonexecution of said work or at any time due to defective work or materials and said responsibility shall continue until the improvement shall have been completed and accepted. The obligation of the Contractor to the County to indemnify and save harmless shall not apply in cases resulting from the sole negligence of the County.

- (b) The Contractor shall conduct his operations upon the right-of-way of any railroad company fully within the rules, regulations and requirements of the railroad company. The Contractor shall be responsible for acquainting himself with such requirements as the railroad company may demand.
- (c) The Contractor shall be held responsible for any accidents that may happen to the railroad company as a result of his operations.
- (d) The Contractor shall not be held responsible for any claims arising from accidents incurred because of any traffic or general use permitted during the time the project or any section thereof is open to traffic under the terms of GP-7.15 except from accidents which are attributable to his negligence.

GP-7.14 LIABILITY INSURANCE

Prior to the start of work on this Contract, the Contractor shall submit to the procurement officer a certificate of insurance indicating that he carries comprehensive general public liability and property damage insurance in the amounts specified elsewhere in the Contract.

GP-7.15 USE AND POSSESSION PRIOR TO COMPLETION

The Administration shall have the right to take possession of or use any completed or partially completed part of the work. Such possession of or use shall not be deemed an acceptance of any work not completed in accordance with the Contract. While the Administration is in such possession, the Contractor shall be relieved of the responsibility for loss or damage to that portion of the work in possession of the Administration, other than that resulting from the Contractor's fault or negligence. If such prior possession or use by the Administration delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment in the Contract price or the time of completion will be made and the Contract shall be modified in writing accordingly.

GP-7.16 CONTRACTOR'S RESPONSIBILITY FOR WORK

- (a) Except as herein elsewhere provided, until final acceptance of the work by the Administration, the Contractor shall have the charge and care thereof and shall take every reasonable precaution against injury or damage to any part thereof by the action of the elements, or from any other cause, whether rising from the execution or from the nonexecution of the work. The Contractor, except as herein elsewhere provided, shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof. Material lost or structures damaged as a result of faulty temporary drainage during construction or the action of the elements shall be replaced or repaired by the Contractor at no cost to the Administration. The Contractor shall make good or replace at his own expense and as required any Administration furnished material which may be broken, lost through fire, theft, or otherwise damaged, or in any way made useless for the purpose and use intended subsequent to delivery to the Contractor by the Administration and prior to final acceptance of the work even though such

breakage, damage, loss or uselessness may result from causes beyond the control of the Contractor.

- (b) In case of suspension of work for any cause whatever, the Contractor shall be responsible for the project and shall take such precautions as may be necessary to prevent damage to the work, provide for normal drainage and shall erect any necessary temporary structures, signs, or other facilities at his expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established plantings, seedings, and soddings furnished under this Contract, and shall take adequate precautions to protect new growth and other important vegetative growth against injury.

GP-7.17 CONTRACTOR'S RESPONSIBILITY FOR UTILITY PROPERTY AND SERVICES

At points where the Contractor's operations are adjacent to properties of railway, telegraph, telephone, and power companies, or are adjacent to other property, damage to which might result in expense, loss or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made by the Contractor.

The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner, that duplication or rearrangement work may be reduced to a minimum and that services rendered by those parties will not be unnecessarily interrupted.

In the event of interruption to utility services as a result of accidental breakage or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with the said authority in the restoration of service. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

GP-7.18 PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the provisions of the Contract, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the Administrator, procurement officer or other authorized representatives, either personally or as officials of the County, it being understood that in all such matters they act solely as agents and representatives of the County.

In addition, the Engineer and his representatives shall be held harmless, free of liability and duress, in the exercise of those duties and obligations as inspector, administrator, witness, referee, and arbiter by both parties in their mutual best interest.

GP-7.19 NO WAIVER OF LEGAL RIGHTS

The Administration shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefore, from showing the true amount and character of the work performed and materials furnished by the Contractor, nor from showing that any such measurement, estimate or certificate is untrue or is incorrectly made, nor from showing that the work or materials do not in fact conform to the Contract. The Administration shall not be precluded or estopped, notwithstanding any such measurement, estimate or certificate and payment in accordance therewith, from recovering from the Contractor or his sureties, or both, such damage as it may sustain by reason of his failure to comply with the terms of the Contract. Neither the acceptance by the Administration, or any representative of the Administration, nor any payment for or acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Administration, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or of any right to damages.

The waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

GP-7.20 NONDISCRIMINATION IN EMPLOYMENT

The Contractor shall agree to the following conditions during the performance of his contract with the County:

- (a)** The Contractor shall not discriminate against any employee or applicant for employment because of sex, race, creed, color or national origin. The firm shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their sex, race, creed, color or national origin. Such action shall include, but not be limited to, the following:

Employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the owner setting forth the provisions of the non-discrimination clause.

- (b)** The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to sex, race, creed, color or national origin.
- (c)** The Contractor shall send to each labor union or representative of workers with whom he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the owner, advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d)** The Contractor shall furnish, if requested by the County, a compliance report concerning its employment practices and policies in

order for the County to ascertain compliance with the special provisions of this agreement concerning nondiscrimination in employment.

- (e) If the Contractor does not comply with the nondiscrimination clause of this agreement, this agreement may be canceled, terminated, or suspended in whole or in part, and the firm may be declared ineligible for further County work.
- (f) The firm shall include the special provisions outlined herein pertaining to nondiscrimination in employment in every subcontract or purchase order it uses in order to carry out the terms and conditions of this agreement so that such nondiscrimination in employment provisions are binding on each subcontractor or vendor.

GP-7.21 SANCTIONS UPON IMPROPER ACTS

Reserved

GP-7.22 NONHIRING OF EMPLOYEES

No employee of Baltimore County or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Contract, shall, while so employed, become or be an employee of the party or parties hereby contracting with said Baltimore County or any unit thereof.

GP-7.23 CHOICE OF LAW

The Parties hereby agree that:

- (a) This Contract was made and entered into in Maryland, and under the laws of Maryland.
- (b) The law of Maryland shall govern the resolution of any issue arising in connection with this Contract, including, but not limited to, all questions concerning the validity of this Contract; the capacity of the parties to enter therein; any modification or amendment thereto; and the rights and obligations of the parties hereunder.

GP-7.24 CONTINGENT FEE PROHIBITION

- (a) The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract.
- (b) For breach or violation of this warranty, the Administration shall have the right to terminate this Agreement without liability, or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

GP-7.25 MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATIONS

Reserved

GP-7.26 COST AND PRICE CERTIFICATION

Reserved

GP-7.27 CORPORATE REGISTRATION AND TAX PAYMENT CERTIFICATION

Reserved

GP-7.28 BUY AMERICAN STEEL ACT

The Provisions of COMAR 21.11.02 pertaining to implementation of the “Buy American Steel” Act (Subtitle 3 of Title 17 of the State Finance and Procurement Article of the Annotated Code of Maryland) are incorporated in this Contract by reference.

GP-7.29 MINORITY BUSINESS ENTERPRISE AND AFFIRMATIVE ACTION

7.29.01 County Policy: It is the policy of Baltimore County, Maryland that minority business enterprises and female contractors, as defined by Executive order dated July 7, 1983, shall have the maximum opportunity to participate in the performance of contracts financed in whole by County funds for project value in excess of \$100,000.00. The following requirements are applicable to all contracts with proposals exceeding that amount.

7.29.02 Contract Goals: For the purpose of this contract, two goals have been established:

Goal #1 - 10% for minority persons, an individual who is African American, Hispanic, Asian American, or American Indian, pursuant to the Baltimore County Minority Business Enterprise Program.

Goal #2 - 2% for women exclusively, regardless of race or ethnicity, pursuant to Baltimore County's Minority Business Enterprise Program.

Note: For EPA funded projects the definition of a "minority" has been expanded to include women, historically Black colleges, universities, as well as, Native Hawaiian organizations.

7.29.03 Responsibility: The bidder agrees to ensure that minority and women business enterprises as defined above have the maximum opportunity to participate in the performance of contracts and subcontracts funded under this Agreement. In this regard, all bidders shall take all necessary and reasonable steps to ensure that minority business enterprises and female contractors have the maximum opportunity to compete for and perform contracts. Baltimore County, Maryland and its bidders shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract.

7.29.04 DEFINITIONS

For the purpose of these requirements, the following terms apply:

Approved MBE Listings —Published compilations of approved and certified minority business, contractors, subcontractors, material suppliers, etc.:

* **DIRECTORY MINORITY BUSINESS ENTERPRISE (MDOT)**

* **MINORITY BUSINESS DIRECTORY OF THE CITY OF BALTIMORE**

BC-DPW — Baltimore County Department of Public Works

BC-DPW MBE Officer — The department employee who provides guidance to the Director on MBE-related matters.

Business Enterprise — Any legal entity which is organized in any form other than as a joint venture (e.g. sole proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.

County — Baltimore County, Maryland

County Representative — MBE Officer or an employee of the County who deals with laws and regulations pertaining to minority business enterprises — Can be reached at (410) 887-3407 for more information regarding the MBE program.

MBE Minority Business Enterprise — A business which is owned and controlled by one or more minority persons or one or more females as defined below.

Minority: a Black American, Hispanic American, Asian Pacific American, Native American, Woman, an Historically Black College or University, or Native Hawaiian Organizations.

Owned and controlled: A small business which is a sole proprietorship legitimately owned by an individual who is a minority person. A partnership controlled by minority persons and in which at least 51 percent of the ownership is held by minority persons; or a corporation controlled by minority

persons and in which at least 51 percent of the ownership and managerial control is held by minority persons pursuant to BC-DPW Minority Business Enterprise Program guidelines.

MBE Participation Program — The following documents submitted by the bidder or the proposer pursuant to the appropriate special bid:

Schedule for Participation of Minority Business Enterprises;

Minority Contractor Project Disclosure and Participation Statement;

Minority Contractor Unavailability Certificate (if appropriate);

Minority Project Disclosure and Participation Statement (if appropriate).

MDOT — Maryland Department of Transportation

7.29.05 BIDDER'S ACTION

7.29.06 Seeking Commitments: The bidder will seek commitments, by subcontract or otherwise, from minority business enterprises for supplies and services, any combined value of which equals or exceeds the appropriate percent of the total value of the contract.

7.29.07 Expenditures for Materials and Supplies: A bidder may count toward its MBE goals expenditures for materials and supplies obtained from MBE suppliers and manufacturers, provided that the MBEs assume the actual and contractual responsibility for the provisions of the materials and supplies.

7.29.08 Information to be supplied: Within seven working days after bid opening, the apparent low bidder shall submit to the County Representative the following information:

- (a) The name of an employee designated as the bidder's liaison officer for minority affairs.

- (b) A completed Schedule for Participation of Minority Business Enterprise (BC 72.0 -D-84.1, Goal 1, and BC 72.O-D-84.2 Goal 2) from among those names appearing in the Approved MBE Listing (excepting FHWA projects, which exclusively require minority business approved and certified by the Maryland Department of Transportation Certification Committee).
- (c) A Minority Contractor Project Disclosure and Participation Statement (BC 72.0-D-85.1, Goal 1, and BC 72.0-D-85.2, Goal 2), completed and signed by the contractor and minority business enterprise for each minority business listed in the Schedule of Participation.
- (d) If the bidder intends to attain the appropriate goal for minority enterprise participation by use of a joint venture, he must submit a Joint Venture Disclosure Affidavit (Form D-EEO-006-A and B) showing the extent of minority business participation. If a bidder intends to use a joint venture as a subcontractor to meet its goal, the affidavit must be submitted through the bidder by the proposed subcontractors and signed by all parties.
- (e) If the proposed MBE participation does not meet the MBE contract goals, information sufficient to demonstrate that the bidder has made every effort to meet these goals will be required.

7.29.09 Records and Reports

7.29.10 Records to be Kept: The bidder will keep such records as are necessary to determine compliance with its minority business enterprise utilization obligations. These records to be kept by the bidder will be designed to indicate:

- (a) The actual minority and non-minority contractors, type of work being performed and actual values of work, services and procurement.
- (b) Documentation of all correspondence, contacts, telephone calls, etc. to obtain services of minority business enterprises on this project.

7.29.11 Quarterly Reports. The bidder will submit reports on a quarterly basis of contracts and other business transactions executed with minority business enterprises with respect to the records referred to in Section 5.04.01 above in such form, manner and content as prescribed by the BC-DPW. These reports will be submitted within the first week of the month following the end of the quarter. If the bidder cannot submit his report on time, he will notify the representative and request additional time to submit the report. Failure of the bidder to report in a timely manner may result in a finding of non-compliance. Additional reports may be required by the County upon written request.

7.29.12 Retaining Records. All such records must be retained for three years following completion of the contract work and be available for inspection by the County.

7.29.13 ADMINISTRATIVE PROCEDURES FOR ENFORCEMENT

Investigation and Notification. Whenever the County believes the bidder or any subcontractor may not be operating in compliance with the terms of these provisions, the County Representative will conduct an investigation. If the County Representative finds the bidder or any subcontractor not in compliance with these provisions, he/she will notify such contractors in writing of such steps as will, in the judgment of the County, bring such contractor into compliance.

7.29.14 Report of Non-compliance. If the Contractor fails or refuses to perform fully such steps, the Representative will make a final report of non-compliance to the Director who may recommend the imposition of one or more of the sanctions listed below.

- (a) Termination of the contract;
- (b) Withholding a percentage of progress payment;
- (c) Referral to Office of County Attorney for follow-up action;
- (d) Denial to the contractor or any subcontractor of the right to participate in any future contracts awarded by the County;

- (e) Other action, as appropriate, within the discretion of the Director of Public Works.

7.29.15 DETERMINATION OF BID RESPONSIVENESS

7.29.16 Request for Deviation. If the bidder is unable to procure from minority business enterprises (by subcontract or otherwise) supplies and services, any combined value of which equals the appropriate percent of the total value of the contract, he will request, in writing, a deviation from goal requirements. This request will be reviewed by the BC-DPW MBE Officer. To obtain such a waiver, the bidder must submit the following information:

- (a) A detailed statement of the efforts made to contact and negotiate with MBEs including: (1) the dates, names, addresses and telephone numbers of MBEs who were contacted; (2) a description of the information provided to MBEs regarding the work to be performed; and (3) a detailed statement of the reasons why additional prospective agreements with MBEs were not reached.
- (b) A detailed statement of the efforts made to select portions of the work proposed to be performed by MBEs in order to increase the likelihood of achieving the goals.
- (c) For each MBE contacted but considered not qualified, a detailed statement of the reasons for the bidder's conclusion.
- (d) For each MBE contacted, but unavailable:
 - (1) A minority Contractor Unavailable Certificate (BC-72.0-D-86) signed by the Minority Business Enterprise, or
 - (2) A statement from the bidder that the MBE refused to give such written certification after reasonable request.

7.29.17 Penalties. The apparent low bidder's failure to perform in providing a responsive MBE/WBE Program as required in Section 5.03.03 may result in the Director of Public Works recommending rejection of the Bid,

forfeiture of the Bid Bond, and negotiations with the next low bidder under similar time period requirements.

7.29.18 Cooperation in Reviews. The bidder will cooperate with the County Representative in any reviews of the contractor's procedures and practices with respect to MBEs which the Representative may from time to time conduct.

7.29.19 Approval Required for Changes. During the life of the contract, all plans to modify the approved MBE participation program will require the approval of the Director of Public Works. This includes any changes to the items of work to be sublet or materials and services to be obtained which differ from those considered in the original MBE participation program.

7.29.20 False, Misleading or Misrepresenting Information. If the documents used to determine the status of an MBE contain false, misleading or misrepresenting information, the matter may be referred to the Office of the County Attorney for appropriate action. In addition, when directed by the Director, the Contractor will terminate, without liability to the County, its contract with a disqualified MBE and promptly submit for approval, the Contractor's plans for maintaining the appropriate MBE and women participation on the project.

7.29.21 Resident Employment and Job Training: General. County Policy: To increase the employment opportunity of its residents, as well as to improve the skill level of lower-income individuals, Baltimore County has established the:

**Office of Employment and Training
One Investment Place
Towson, Maryland 21204**

Phone: (410) 887-4473.

7.29.22 Contractor's Responsibility. For all contracts or subcontracts in excess of \$100,000.00, the Contractor shall comply with the following requirements.

NOTE: NOT APPLICABLE FOR EPA CONTRACTS

7.29.23 Prior to Start of Work

Notice: The Contractor shall advise OTA of:

- (a) His regular labor referral service, if any, and his primary contact person in that service or source. Such referral sources may be labor unions, public manpower agencies, or other established sources.
- (b) His general labor requirements, including estimates of numbers to be hired by occupation or trade and approximate hiring date.

7.29.24 Meeting: The Contractor shall set up and coordinate a meeting between representatives of his labor referral sources, his office, and OTA.

7.29.25 Occupational Training Administration Cooperation

- (a) Programs: OTA will review with the Contractor the Targeted Jobs Tax Credit Program and will establish the eligibility of local residents to qualify the Contractor for this credit. OTA will review with the Contractor other programs including the possibility of preparing local residents as qualified workers through existing training programs and OTA's On-the-Job Training Program for new workers under which OTA may reimburse a Contractor for a portion of the lost productivity associated with such training.
- (b) Recruitment and Referral: If the Contractor has no regular referral source, OTA will coordinate recruitment and referral.

GP-7.30 PREVAILING WAGE CONTRACTS FOR PUBLIC WORKS

Reserved

GP-7.31 SMALL BUSINESS PROCUREMENTS

Reserved

GP-7.32 FINANCIAL DISCLOSURE

Reserved

GP-7.33 POLITICAL CONTRIBUTION DISCLOSURE

Reserved

GP-7.34 CONFLICT OF INTEREST LAW

Reserved

GP-7.35 PRE-EXISTING REGULATIONS

Reserved

GP-7.36 RETENTION OF RECORDS

- (a) The Contractor shall retain and maintain all records and documents, including, but not limited to, cost or pricing data, relating to this Contract for three years after final payment by the County hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the County, including the procurement officer or his designee at all reasonable times.
- (b) The Contractor shall include the provisions of paragraph (a) in every subcontract.

GP-7.37 RESPONSIBILITY FOR RIGHT OF WAY

- (a) The right-of-way (or construction site) as shown on the drawings has been, or will be, secured by Baltimore County and will be available to the Contractor before construction.
- (b) The Contractor shall not move any equipment or material in or on the right-of-way until authorized to do so by the Engineer. The

Contractor shall confine his operations strictly within the limits of the rights-of-way shown unless he obtains the written permission of the owner of such additional lands as he proposes to occupy. A copy of the written permission will be furnished to the Engineer.

- (c) Unless otherwise provided in the contract documents, trees with a butt diameter in excess of three (3) inches, measured three (3) feet above the ground, shall not be felled or damaged by the Contractor in a right-of-way identified as a construction strip. Should the Contractor obtain written permission of the property owner to fell a tree or trees with a diameter greater than three (3) inches from a construction strip, he shall provide a copy of the written permission to the Engineer.
- (d) Unless otherwise provided in the contract documents, all trees may be felled with the permission of the Baltimore County Engineer in those rights-of-way identified as a highway right-of-way or a slope, utility or drainage easement.
- (e) Unless otherwise provided in the contract documents, the Contractor is to preserve and protect, remove and replace, or restore fences, mail boxes, sidewalks, driveways, shrubs, perennial plants, or other private improvements in rights-of-way identified as construction strips or easements of any kind.
- (f) Property pipes, stones or monuments within rights-of-way are to be preserved and protected by the Contractor until survey references are established by the Engineer. The County shall restore property, pipes, stones, or monuments thus referenced without cost to the Contractor. If the pipes, stones, or monuments are moved by the Contractor without notification to the Engineer, the Contractor shall bear the cost of replacement.
- (g) On completion of the work, the Contractor shall restore the rights-of-way provided to a condition equivalent to that originally encountered, unless improved by the work completed or specified. Property used by the Contractor under letter of permission or property which has been damaged shall be restored pursuant to the letter of

permission or to the satisfaction of the property owner without expense to the County.

- (h) No arrangements will be made by the County for rights-of-way or rights of access beyond those shown to all bidders. Any costs relative to additional rights-of-way, rights of ingress and egress, or any other supplemental property rights are considered to have been accounted for in the price of items bid.

GP-SECTION 8 PROSECUTION AND PROGRESS

GP-8.01 SUBCONTRACTING

Except as may be provided elsewhere in the Contract, the Contractor to whom a Contract is awarded shall perform with his own organization and with the assistance of workmen under his immediate supervision, work of a value of not less than 50 percent of the total original value of the Contract. The Director of Public Works may permit the Contractor to sublet work in excess of the 50 percent limitation where it is shown that the best interest of the County will be promoted thereby.

No portion of the Contract shall be subcontracted, assigned or otherwise disposed of except with the written consent of the procurement officer. Any assignment, subcontract or other disposition of all or part of this Contract without the express written consent of the procurement officer shall be null and void. Consent to subcontract, assign or otherwise dispose of any portion of the Contract shall not be construed to relieve the Contractor or surety of any responsibility for the fulfilling of all the requirements of the Contract.

The Contractor shall incorporate by reference or otherwise include these General Provisions in every subcontract issued pursuant to or under this

Contract, and shall require that the same reference or inclusion be contained in every subcontract entered into by any of its subcontractors.

GP-8.02 NOTICE TO PROCEED

- (a) After the Contract has been executed, the Administration will, within the time limit specified by the Administration elsewhere in the Contract Documents, issue to the Contractor a “Notice to Proceed” and this notice will stipulate when the Contractor is expected to begin work. The specified Contract time shall begin on the date stipulated in the Notice to Proceed or, if an earlier start is authorized in the Notice to Proceed, on the day work (other than the erection of the inspection office, construction stakeouts and mobilization) actually starts. Work done prior to receipt of the Notice to Proceed is unauthorized and will not be measured or paid for.

- (b) If the County is unable to issue the Notice to Proceed within 90 days from the award of the Contract, the Contractor may request the County to rescind the Contract, it being mutually understood that responsibilities and liabilities will be limited to the net cost of materials actually fabricated and/or delivered to the site of the Contract.

- (c) Any material paid for by the County will become the property of the County.

- (d) Emergency Roster: Each successful Contractor must furnish the Engineer with the names, addresses and telephone numbers of at least two members of his organization who may be contacted in an emergency.

GP-8.03 PROSECUTION OF THE WORK

- (a) The Contractor shall begin work promptly within the time specified by the procurement officer and shall notify the procurement officer at least 48 hours before starting work.

- (b) After the work has once been started, it shall be prosecuted continuously on all acceptable working days without stoppage until the entire Contract is complete.
- (c) Should the prosecution of the work for any reason be discontinued, the Contractor shall notify the procurement officer of his intention to stop and shall also notify the procurement officer at least 24 hours in advance of resuming operations. Said notification shall be confirmed in writing.

GP-8.04 PROGRESS SCHEDULE

- (a) Within 30 days after the Award of the Contract, the Contractor shall furnish the procurement officer a "Progress Schedule" showing the proposed order of work and indicating the time required for the completion of the work. Said progress schedule shall be used to establish major construction operations and to check on the progress of the work. The Contractor shall submit revised progress schedules as directed by the procurement officer.
- (b) If the Contractor fails to submit the progress schedule within the time prescribed, or the revised schedule within the requested time, the procurement officer may withhold approval of progress payment estimates until such time as the Contractor submits the required progress schedules or may terminate the Contract for default.
- (c) If, in the opinion of the procurement officer, the Contractor falls significantly behind the approved progress schedule, the Contractor shall take any and all steps necessary to improve his progress. This may require the Contractor to increase the number of shifts, initiate or increase overtime operations, increase days of work in the work week, or increase the amount of construction plants, or all of them. The procurement officer may also require the Contractor to submit for approval supplemental progress schedules detailing the specific operational changes to be instituted to regain the approved schedule, all without additional cost to the Administration.

- (d) Failure of the Contractor to comply with the requirements of the procurement officer under this provision shall be grounds for determination by the procurement officer that the Contractor is not prosecuting the work with such diligence as will insure completion within the time specified. Upon such determination, the procurement officer may terminate the Contractor's right to proceed with the work, or any separable part thereof, in accordance with GP-8.08 of these General Provisions.

GP-8.05 LIMITATIONS OF OPERATION

The Contractor shall conduct the work at all times in such a manner and in such sequence as will assure the least interference with the public.

No work shall be done on Saturdays, Sundays, or holidays without the prior approval of the Engineer. Except for emergencies, approval to work on Saturdays, Sundays and holidays shall be obtained 48 hours in advance.

GP-8.06 CHARACTER OF WORKMEN, METHODS AND EQUIPMENT

The Contractor shall employ sufficient labor and equipment for prosecuting the several classes of work to full completion in the manner and time required by the Contract.

Workmen must have sufficient skill and experience to perform properly the work assigned to them. All workmen engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform all work properly and satisfactorily.

Any person employed by the Contractor or by any subcontractor who, in the opinion of the procurement officer, does not perform his work in a proper manner or is intemperate or disorderly shall, at the written request of the procurement officer, be removed forthwith by the Contractor or subcontractor employing such foreman or workman, and shall not be employed again in any portion of the work without the approval of the procurement officer.

Should the Contractor fail to remove such person or persons as required above, or fail to furnish suitable and sufficient personnel for the proper prosecution of the work, the procurement officer may withhold estimates which are or may become due on the Contract until a satisfactory understanding has been reached.

Equipment to be used on the work shall meet the requirements of the work and produce a satisfactory quality of work. The procurement officer may order the removal and require replacement of any unsatisfactory equipment.

When the methods and equipment to be used by the Contractor in accomplishing the construction are not prescribed in the Contract, the Contractor is free to use any methods or equipment that he demonstrates to the satisfaction of the procurement officer will accomplish the Contract work in conformity with the requirements of the Contract.

When the Contract specifies that the construction be performed by the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized by the procurement officer in writing. If the Contractor desires to use a method or type of equipment other than those specified in the Contract, he may request authority from the procurement officer to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed to be used and an explanation of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing construction work in conformity with Contract requirements. If, after trial use of the substituted methods or equipment, the procurement officer determines that the work produced does not meet Contract requirements, the Contractor shall discontinue the use of the substituted method or equipment and shall complete the remaining construction with the specified methods and equipment. The Contractor shall remove the deficient work and replace it with work of specified quality, or take such other corrective action as the procurement officer may direct. The Change Order issued shall not result in an increase in contract price or time.

GP-8.07 SUSPENSION OF WORK

The Engineer shall have the authority to suspend the work, wholly or in

part, for such period or periods as he may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for the proper prosecution of the work, or for such time as is necessary because the Contractor has failed to carry out orders given or to perform any and all provisions on the Contract. If it should become necessary to stop work for an indefinite period, the Contractor shall store all materials in such manner that they will not obstruct or impede the traveling public unnecessarily nor become damaged in any way, and he shall take every precaution to prevent damage or deterioration of the work performed, provide suitable drainage by opening ditches, shoulder drains, etc., and erect temporary structures where necessary.

GP-8.08 TERMINATION FOR DEFAULT - DAMAGES FOR DELAY - TIME EXTENSIONS.

- (a) The Engineer shall give notice in writing to the Contractor and his Surety in case of delay, neglect or default, specifying the same and establishing a time and place for a meeting with both. Such delay, neglect or default include:
 - (1) Failure to begin the work under the Contract within the time specified in the Notice to Proceed;
 - (2) Failure to carry on the work in an acceptable manner;
 - (3) Failure to perform the work with sufficient workmen, equipment or materials to ensure the prompt completion of the work;
 - (4) Failure to perform the work suitably or neglecting or refusing to remove materials or perform anew such work as shall be rejected as defective and unsuitable;
 - (5) Discontinuing the prosecution of the work without authority to do so;
 - (6) Failure to resume work which has been discontinued within a reasonable time after notice to do so;

- (7) Committing any act of bankruptcy or insolvency; allowing any final judgment to stand against him unsatisfied to a period of 10 days; making an assignment for the benefit of creditors; or becoming insolvent or declared bankrupt.
- (b) If, at the meeting with the Contractor and Surety, the Engineer is unable to resolve the issues specified in the Notice and assure the County that the construction will be resumed in good faith, wither by the Contractor or through the good offices of the Surety, of if the Contractor and Surety, or either one, fails to meet as specified in the Notice, then the County shall, upon written notice of the Engineer of the fact of such delay, neglect or default and the Contractor's failure to comply with such notice, have full power and authority, without violating the Contract, to take the prosecution of the work out of the hands of the Contractor.
- (c) The County may appropriate or use any of all materials and equipment intended to be incorporated in the Contract as may be suitable and acceptable and may enter into an agreement for the completion of said Contract according to the terms and provisions thereof, or use such other methods as in their opinion shall be required for the completion of said contract in an acceptable manner.
- (d) All additional costs and charges incurred by the County, together with the cost of completing the work under contract, shall be deducted from any monies due or which may become due said Contractor. If the expense so incurred by the County is less then the sum which would have been payable under the Contract if it had been completed by said Contractor, the said Contractor shall be entitled to receive the difference, and if such expense exceeds the sum which would have been payable under the Contract, the Contractor and the Surety shall be liable and shall pay to the County the amount of said excess.
- (e) If fixed and agreed liquidated damages are provided in the Contract and if the County so terminates the Contractor's right to proceed, the resulting damage shall consist of such liquidated damages until a reasonable time as may be required for final completion of

the work together with any increased costs occasioned the County in completing the work.

- (f) If fixed and agreed liquidated damages are provided in the Contract and if the County does not so terminate the Contractor's right to proceed, the resulting damage shall consist of these liquidated damages until the work is completed or accepted.
- (g) The Contractor's right to proceed may not be so terminated nor the Contractor charged with resulting damages if:
 - (1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of another Contractor in the performance of a Contract with the County, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and,
 - (2) The Contractor, within 10 days from the beginning of any such delay (unless the procurement officer grants a further period of time before the date of final payment under the Contract), notifies the procurement officer in writing of the causes of delay. The procurement officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the "Disputes" clause of this Contract.
- (h) If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the Contract

contains a clause providing for termination for convenience of the County, be the same as if the notice of termination had been issued pursuant to the clause. If, in the foregoing circumstances, this Contract does not contain a clause providing for termination for convenience of the County, the Contract shall be equitably adjusted to compensate for the termination and the Contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled “Disputes”.

- (i) The rights and remedies of the County provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.
- (j) As used in paragraph (g)(1) of this clause, the term “subcontractors or suppliers” means subcontractors or suppliers at any tier.

GP-8.09 LIQUIDATED DAMAGES

Time is an essential element of the Contract and it is important that the work be vigorously prosecuted until completion.

For each day that any work shall remain uncompleted beyond the time specified elsewhere in the Contract, the Contractor and/or his surety shall be liable for liquidated damages in the amount provided for in the solicitation, provided, however, that due account shall be taken of any adjustment of specified completion time for completion of work as granted by approved change orders.

GP-8.10 TERMINATION FOR CONVENIENCE OF THE COUNTY

- (a) The performance of work under this Contract may be terminated by the County in accordance with this clause in whole, or from time to time in part, whenever the procurement officer shall determine that such termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor of a Notice

of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

- (b)** After receipt of Notice of Termination, and except as otherwise directed by the procurement officer, the Contractor shall:
 - (1)** Stop work under the Contract on the date and to the extent specified in the Notice of Termination;
 - (2)** Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of the portion of the work under the Contract as is not terminated;
 - (3)** Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by Notice of Termination;
 - (4)** Assign to the County in the manner, at the times, and to the extent directed by the procurement officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - (5)** Settle all outstanding liabilities and all claims arising out of the termination of orders and subcontracts, with the approval or ratification of the procurement officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;
 - (6)** Transfer title and deliver to the County, in the manner, at the times and to the extent, if any, directed by the procurement officer, (a) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of the work terminated by the Notice of Termination, and (b) the completed or partially completed plans, drawings, information,

and other property which, if the Contract had been completed, would have been required to be furnished to the County;

- (7) Use its best effort to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the procurement officer, any property of the types referred to in (6) above; provided, however, that the Contractor (a) may not be required to extend credit to any purchaser, and (b) may acquire any such property under the conditions prescribed by and at a price or prices approved by the procurement officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the County to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the procurement officer may direct;
- (8) Complete performance of such part of the work as may not have been terminated by the Notice of Termination; and
- (9) Take any action that may be necessary, or as the procurement officer may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the County has or may acquire an interest. The Contractor shall submit to the procurement officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the procurement officer, and may request the County to remove such items or enter into a storage agreement covering them. Not later than 15 days thereafter, the County shall accept title to such items and remove them or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the procurement officer upon removal of the items, or if the items are stored, within 45 days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

- (c) After receipt of a Notice of Termination, the Contractor shall submit to the procurement officer his termination claim, in the form and with certification prescribed by the procurement officer. This claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the procurement officer, upon request of the Contractor made in writing within the one year period or authorized extension thereof. However, if the procurement officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after the one year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed or any extension thereof, the procurement officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- (d) Subject to the provisions of paragraph (c), the Contractor and the procurement officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the procurement officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph.
- (e) In the event of the failure of the Contractor and the procurement officer to agree as provided in paragraph (d), upon the whole amount

to be paid to the Contractor by reason of the termination of work pursuant to this clause, the procurement officer shall pay to the Contractor the amounts determined by the procurement officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

- (1)** For completed supplies or services accepted by the County (or sold or acquired as provided in paragraph (b)(7) above) and for which payment has not theretofore been made, a sum equivalent to the aggregate price for the supplies or services computed in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges;
- (2)** The total of:
 - (a)** The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under paragraph (e)(1) hereof;
 - (b)** The cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(5) above, which are properly chargeable to the termination portion of the Contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors before the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (a) above); and
 - (c)** A sum, as profit on (a) above, determined by the procurement officer to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this subdivision (c) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

- (d) The reasonable cost of settlement accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this Contract.

The total sum to be paid to the Contractor under (1) and (2) of this paragraph shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. Except for normal spoilage, and except to the extent that the County shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in (e)(1) and (a) above, the fair value, as determined by the procurement officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the County or to a buyer pursuant to paragraph (b)(7).

(f) Deleted

- (g) The Contractor shall have the right of appeal, under the clause of this Contract entitled “Disputes”, from any determination made by the procurement officer under paragraph (c), (e), or (i) hereof, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) or (i) hereof, and has failed to request extension of such time, he shall have no such right of appeal. In any case where the procurement officer has made a determination of the amount due under paragraph (d), (e), or (i) hereof, the County shall pay to the Contractor the following:

- (1) If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the procurement officer; or,
- (2) If an appeal has been taken, the amount finally determined on such appeal.

- (h)** In arriving at the amount due the Contractor under this clause there shall be deducted:
- (1)** All unliquidated advance or other payments or account there-tofore made to the Contractor, applicable to the terminated portion of this Contract;
 - (2)** Any claim which the County may have against the Contractor in connection with this Contract; and
 - (3)** The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise re-covered by or credited to the County.
- (i)** If the termination hereunder be partial, the Contractor may file with the procurement officer a claim for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this clause shall be asserted within ninety (90) days from the effective date of the termination notice, unless an extension is granted in writing by the procurement officer.
- (j)** The County may, from time to time, under such terms and condi-tions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Contract whenever, in the opinion of the procurement officer, the aggregate of such payments shall be within the amount to which the Contractor shall be entitled hereun-der. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the County upon demand, to-gether with interest computed at the prime rate established by the State Treasurer for the period from the date such excess payment is received by the Contractor to the date on which the excess is re-

paid to the County; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date as determined by the procurement officer by reason of the circumstances.

- (k) Unless otherwise provided for in this Contract, or by applicable statute, the Contractor shall, from the effective date of termination until the expiration of three years after final settlement under this Contract, preserve and make available to the County at all reasonable times at the office of the Contractor but without direct charge to the County, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work terminated hereunder, or, to the extent approved by the procurement officer, photographs, microphotographs, or other authentic reproductions thereof.

GP-8.11 SUCCESSFUL TERMINATION OF CONTRACTOR'S RESPONSIBILITY

A Contract will be considered as successfully fulfilled when the work has been completed in accordance with the terms of the Contract; when final acceptance has occurred; when final payment has been authorized; when all of the obligations of the Contractor and his surety have been complied with; and when final payment has been made.

GP-SECTION 9 PAYMENT

GP-9.01 SCOPE OF PAYMENT

- (a) Payments to the Contractor will be made for the actual quantities of contract items performed in accordance with the Plans and Specifications and if, upon completion of the construction, these actual quantities show either an increase or decrease from the quantities

given in the bid schedule, the contract unit prices will still prevail, except as provided in GP-4.04 or contract modifications.

- (b)** After the work is completed and before Final Payment is made, the Engineer shall make final measurements for all items of work, other than those paid by lump sum, to determine the quantities of various items of work performed as the basis for final settlement. In case of unit price items, the Contractor will be paid, in accordance with these Specifications, for the actual amount of work performed and for actual amount of materials in place as shown by the final measurements. All work completed under the Contract shall be measured by the Engineer according to the standards of weights and measures recognized by the National Institute of Standards and Technology.
- (c)** Except as herein provided, the Contractor shall accept the compensation as herein provided:

 - (1)** In full payment for furnishing all materials, lab, or tools equipment and incidentals necessary to the completed work and for performing all work contemplated and embraced under the Contract;
 - 2.** For all loss or damage arising from the nature of the work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work and until its final acceptance by the Engineer;
 - 3.** For all risks of every description connected with the prosecution of the work; and
 - 4.** For all expenses incurred in consequence of the suspension of the work as herein authorized.
- (d)** Where the “Basis of Payment” clauses in the Specifications relating to any unit price in the bid schedule require that the said unit price cover, and be considered, compensation for certain work or material essential to the item, this same work or material shall not also be

measured or paid for under any other pay item which may appear elsewhere in the Specifications.

- (e) The payment of any partial estimate or of any retained percentage except by and under the approved final estimate and voucher, in no way shall affect the obligation of the Contractor to repair or renew any defective parts of the construction or to be responsible for all damages due to such defects.

GP-9.02 FORCE ACCOUNT WORK

When the Contractor is required to perform work as a result of changes to the Contract for which there are no applicable unit prices in the Contract, the Engineer and the Contractor shall make every effort to come to an agreed price for the performance of such work. If an agreement cannot be reached, the Engineer may, in writing, order the work done on a Force Account basis, to be compensated in accordance with the following:

- (a) **Labor.** For all labor and for foremen in direct charge of the specific operations, the Contractor shall receive the rate of wage agreed upon in writing before beginning work for each and every hour that said labor and foremen are actually engaged in such work, to which cost shall be added an amount equal to the percentage of the sum shown below. No additional allowance will be considered for Bond, insurance, taxes or other fringe benefits. Superintendent’s time will not be allowed.

Highway Contracts65%
Utility Contracts75%

- (b) **Materials.** For materials accepted by the Engineer and used for the work, the Contractor shall receive the actual cost of such materials delivered to the site. This cost includes transportation charges paid by him exclusive of machinery rentals, to which cost shall be added an amount equal to 20 percent plus prevailing Maryland State sales tax.

(c) Subcontractors.

- (1)** When an item of work is performed on a Force Account basis by a subcontractor who is approved for this work by the Engineer, an amount equal to 10 percent of the total cost shall be added to the final payment for such Force Account work.
- (2)** The amount of compensation thus realized by the additional 10 percent of the cost of the work performed shall be considered as full compensation to the Contractor for the administration of the work performed by the subcontractor under the Force Account basis.
- (3)** The additional 10 percent compensation to the Contractor for administration shall only be allowed if the work requires particular trades or specialty work for which the Contractor is not prequalified, and not for work assigned to a subcontractor for the convenience of the Contractor.

(d) Equipment. For any machinery or special equipment approved for use (other than small tools), including fuel and lubricants, the Contractor shall receive the rental rates and operating cost agreed upon in writing before such work is begun for the actual time such equipment is authorized on the work. The rental rate and operating cost, including fuel and lubricant but excluding operators, shall be the current rates from the Rental Rate Blue Book for Construction Equipment, published by the Equipment Guide Book Company, and/or the Rental Rate Blue Book for Older Construction Equipment.

- (1)** Rental rate shall be based on the weekly rate converted into hours. To compute hourly rate use 40 hours per week.
- (2)** Both rental rate and operating rate will be subject to area adjustment per the Rental Rate Blue Book for Construction Equipment. No other allowances or additions will be paid.
- (3)** Rental rate will be applied to both idle time and operating time

authorized. Operating rate will be applied to operating time only.

- (e) **Superintendence.** No additional allowance shall be made for general superintendence, the use of small tools, or other costs for which no specific allowance is herein provided.
- (f) **Compensation.** The compensation as set forth above shall be received by the Contractor as payment in full for change order work done on a force account basis. At the end of each day, the Contractor's representative and the procurement officer shall compare records of the cost of work as ordered on a force account basis.
- (g) **Statements.** No payment will be made for work performed on a force account basis until the Contractor furnishes the procurement officer duplicate itemized statements of the cost of such force account work detailed as to the following:
 - (1) Name, classification, date, daily hours, total hours, rate, and extension for such laborer, or foreman.
 - (2) Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.
 - (3) Quantities of materials, prices and extensions.
 - (4) Transportation of materials.
 - (5) Payments of items under (g)(1) shall be accomplished by copies of certified payrolls. Under (g)(2) original receipted invoices for rentals must be provided if requested by the procurement officer. Paragraphs (g)(3) and (g)(4) shall be accompanied by original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work are not specifically purchased for such work but are taken from the Contractor's stock, then in lieu of the original invoices the statements shall contain or be accompanied by

an affidavit of the Contractor which shall certify that such materials were taken from his stock, that the quantity claimed was actually used and that the price and transportation of the material as claimed represent actual cost. Any request for payment under this Section shall be submitted in the order outlined by the above.

GP-9.03 PROGRESS PAYMENTS

(a) Current Estimates.

(1) Lump Sum Contracts. If requested by the Administration, the Contractor shall furnish an acceptable breakdown of the lump sum Contract price showing the amount included therein for each principal category of the work. Said breakdown shall be in such detail so as to provide a basis for estimating monthly progress payments.

(2) Monthly Estimates. Each month the Administration will pay the Contractor for the Contract value of the work satisfactorily performed during the preceding calendar month, including authorized extras and additions less 5 percent. The 5 percent of the total Contract value retained by the Administration will not be released until final payment (unless partially released in a semi-final payment). Current estimates will be based upon the procurement officer's estimate of quantity (including materials and/or equipment complete in place) satisfactorily performed. In the instance of lump sum items, the procurement officer's estimate shall be the proper fraction of the lump sum items satisfactorily performed during the preceding month. All quantities, estimates and fractions will be reasonably accurate approximations and are subject to correction (a) in subsequent current estimates, (b) in any semi-final estimate and, (c) in final payment. Any and/or all partial payments may be withheld in the event current requirements of the Specifications have not been complied with by the Contractor. Should either the procurement officer or the Contractor be of the opinion that any

estimates, quantities and/or fractions (either as to an individual current estimate or accumulations thereof) do not represent a reasonably accurate approximation of actual work, then details questioned shall be reviewed and then any corrections adjusted for in the next current estimate.

Deferred Monthly Payment. Should the amount(s) due the Contractor for any one month be less than Five Hundred dollars (\$500.00), payment will be deferred until such time as the amount(s) due the Contractor under subsequent estimates, combined with that month for which the amount(s) due was less than \$500.00, shall equal Five Hundred dollars (\$500.00) or more.

(b) Semi-Final Estimate Payments.

- (1) Upon completion of the project and the acceptance by the Administration of the project for maintenance, the Administration, at the Contractor's request and with consent of surety, will pay the Contractor, within 45 calendar days of said request, what is hereby known as a semi-final estimate payment. Such a semi-final estimate payment will be based upon (a) quantities the Administration has computed and set up as proposed final quantities and (b) a reasonably accurate estimate for those quantities for which the Administration has not yet completed computations. The quantities which the Administration sets forth as proposed final quantities shall be so designated. To arrive at the amount of semi-final estimate payment there shall be deducted from the apparent estimated value of the Contract (a) total of all amounts previously paid to the Contractor as current estimates and (b) sums deemed chargeable against the Contractor properly deductible, including liquidated damages, and as a retainage, and an amount equal to 2 percent of the total value or \$2,000.00, whichever is greater.
- (2) In cases where there has been substantial completion of the project and there are remaining only inconsequential or minor work items such as painting, seeding, mulching, or planting to

be completed and such items cannot be completed for an extended period of time because of seasonal or weather conditions, there shall be made a semi-final inspection and if the work completed is found by the Administration to be satisfactory, then there is deemed to be partial acceptance on the entire project except for the uncompleted work items. Upon the above referred to partial acceptance, the Administration, within 45 days from such partial acceptance, upon request of the Contractor and with consent of surety, shall pay to the Contractor, what is hereby known as a partial semi-final estimate payment. Such a semi-final estimate payment will be based upon (a) quantities the Administration has computed and set up as proposed final quantities and (b) a reasonably accurate estimate for those quantities for which the Administration has not yet completed computations. The quantities which the Administration sets forth as proposed final quantities shall be so designated. To arrive at the amount of semi-final estimate payment, there shall be deducted from the apparent estimated value of the Contract (a) total of all amounts previously paid to the Contractor as current estimates, and (b) sums deemed chargeable against the Contractor properly deductible, including liquidated damages, and as a retainage, a sum equal to 2 percent of the total value of the Contract. (Said retainage is not to be less than \$2,000).

GP-9.04 FINAL ACCEPTANCE AND FINAL PAYMENT

- (a) When the Contractor has completed a Contract, and it has been accepted for maintenance in accordance with the provisions of GP-5.13, the Engineer will promptly proceed:
 - (1) To make any necessary final surveys;
 - (2) To complete any necessary computation of quantities; and
 - (3) To submit to the Contractor, within 60 days after final completion and acceptance of the project by the procurement officer for maintenance, for his consideration, a tabulation of the pro-

posed final quantities. This tabulation shall be accompanied by a statement setting forth: (a) the additional work performed under change orders and/or supplemental agreements; (b) the authorized extension of time; (c) the number of days which have been charged against the Contractor as having been used to complete the Contract, and (d) any deductions, charges or liquidated damages which have been made or imposed.

- (b) The Contractor shall then have a period of 20 calendar days, dating from the date upon which he received the aforementioned tabulation from the Engineer, in which:

 - (1) To decide whether or not he will accept final payment upon such a basis, and
 - (2) To notify the Engineer, in writing, of his decision. The Contractor may request an additional period up to 10 calendar days in which to notify the Engineer of his decision. In the event the Contractor notifies the Engineer that he protests final payment on such a basis, that notification shall outline the reason(s) for said protest.
- (c) Upon receipt of a notification of acceptance as provided for in paragraph (b) above (or in the event of no response), the County shall prepare the Final Estimate and Final Payment Forms and submit the Final Payment check to the Contractor. Such action by the County shall be deemed to constitute acceptance and final payment.
- (d) If, under the provisions of paragraph (b) above, the Contractor notifies the Engineer of his protest and nonacceptance of the data submitted to him, the Engineer shall pay the Contractor a semi-final estimate, or an additional semi-final estimate in the event a semi-final estimate has already been paid based upon the data noted in paragraph (a) above, with deductions for all prior payments. A retainage equal to 1.5 percent of the total value of the Contract shall be withheld by the Engineer. The acceptance of such semi-final estimate, or additional semi-final estimate, shall not be considered as a waiver on the part of the Contractor of his right to pursue his protest and press for acceptance and final payment.

- (e) In the event the Contractor does not accept the data submitted to him as described in paragraph (a) above and/or has outstanding a claim filed in accordance with GP-5.14, the procurement officer and the Contractor shall confer at mutually convenient times and endeavor to reconcile all points of disagreement expeditiously. If such reconciliation is accomplished, the Engineer will promptly proceed with acceptance and final payment on the reconciled basis and in accordance with the provisions of paragraph (c) above. If reconciliation is not accomplished within 30 days, the decision of the Engineer shall be submitted to the Director of Public Works as a dispute for arbitration in accordance with GP-5.15 Disputes.

- (f) All prior partial estimates and payments shall be subject to correction at the time of acceptance and final payment and if the Contractor has been previously overpaid, the amount of such overpayment shall be set forth in the Final Payment forms and the Contractor hereby agrees that he will reimburse the Administration for such overpayment within six months of receipt of such advice, and his surety will not be granted release from obligations under the terms of the Contract until reimbursement has been made in full. It is further agreed that the County can withhold the overpayment from other accounts due and payable to the Contractor.

- (g) Payment for the full apparent value of the Contract thus determined shall become due and payable to the Contractor within ninety (90) days after acceptance of the project by the procurement officer for maintenance, as hereinafter provided. Contractor's acceptance of final payment shall be considered a general release of all claims against the County arising out of, or in any way connected with, this Contract.

GP-9.05 LATE PAYMENTS

Reserved

GP-9.06 INTEREST

Notwithstanding any other provision in this Contract, the Contractor hereby waives the right to predecision interest.

GP-SECTION 10 PRIVATE CONTRACTS

GP-10 PRIVATE CONTRACTS

(a) A private contract is used in land development projects when, with the permission of the Director of the Department of Public Works, the construction contract is let by the developer rather than the County. The developer shall obtain the bid privately using contract forms provided by the Division of Construction Contract Administration. No public funds may be used in a private contract.

(b) The following sections apply to private contracts:

204.03.07 B
204.04
501.03.14
501.04.05
504.04
504.03.03.

(c) For private contracts, all references to Baltimore County (including “Administration”) shall be construed to mean the Developer as defined in the governing Public Works Agreement, in the following sections of these Standard Specifications:

GP-2 - Bidding Requirements and Conditions;

GP-3 - Award and Execution of Contract;

GP-4 - Scope of Work;

and all references to making payments under the Contract.

(d) In all other portions of these Standard Specifications, references to Baltimore County shall remain unchanged, whether the contract is public or private.

- (e) Private contracts may include fixed price contingent items to provide for certain contingencies encountered during highway and utility construction. If included in the proposal, unit prices shall be those established by Baltimore County.

(1) Fixed Price Highway Contingent Items - Private Contract Only

See Section 109 of Category 100 “Preliminary”

(2) Fixed Price Utility Contingent Items - Private Contract Only

See Section 109 of Category 100 “Preliminary”

(3) Award and Execution of Contract - Private Contract Only

Section GP-3.03 PERFORMANCE BOND AND PAYMENT REQUIREMENTS

In paragraph (b) delete the words “Twenty-five Thousand Dollars (\$25,000)” and substitute “Two Thousand Dollars (\$2,000)”

(4) Unauthorized Work - Private Contracts Only

Section GP-4.08 Unauthorized Work

Add the following new paragraph:

Any work performed in excess of 110% of the contract bid, or 110% of the Contract bid plus supplemental agreements, between the developer and the Contractor, shall be considered unauthorized work and shall not be paid for. The Contractor is advised to bring to the attention of the developer and the County, in writing, any impending overrun of the 110% upset limitation at least two weeks before having to stop work due to this limitation.

(5) Interest - Private Contracts Only

Section GP-9.06 Interest

Add the following new paragraphs:

Payment by the developer under Sections GP-9.03(b) (Semi-Final Estimate Payments) and GP-9.04 (Acceptance and Final Payment) shall be due on receipt of the monthly estimates, semi-final estimates, and final estimates prepared by the Department of Public Works and submitted to both parties in the amount shown as payable on this estimate.

Any monies not paid within fifteen (15) days of the date of such estimates shall bear interest at the rate of 18% per annum. Interest shall be computed and invoiced by the Contractor and shall not be subject to a review or approval by the Department of Public Works. However, the Department of Public Works will not consider the Developer's Public Works Agreement obligations complete as long as the Contractor reports an outstanding indebtedness under this contract.

(6) Interim Acceptance - Development Bonds - Private Contract Only

The following paragraph shall be added to Section GP-9.03 (b), Semi-Final Estimate Payments:

3. When the Contractor postpones road surfacing (during the course of completing a two-phased, 4-inch, paving section) his retainage shall be 2.0 percent after the bituminous base course has been accepted. Following a satisfactory re-inspection one year after that acceptance, the retainage may be reduced to 0.0 percent.

TC- SECTION 1

REFERENCES AND DEFINITIONS

TC-1.01 REFERENCES.

Reference to Specifications or procedures beginning with the letters M, R, or T shall be understood to be AASHTO.

Reference to Specifications or procedures beginning with the letters A, B, C, D, E, F, G, ES or P shall be understood to be ASTM.

TC-1.02 DEFINITIONS.

Administration — Baltimore County, Maryland, a body corporate and politic.

Alley — An established passageway for vehicles and pedestrians affording a secondary means of access in the rear to properties abutting on a street or highway.

Baltimore County Standard Details for Construction - Detail drawings showing standard methods of construction for water mains, sanitary sewers, storm drains, roads and streets.

Base Course — The one or more layers of specified material and thickness placed on a subbase or a subgrade to support a surface course.

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 an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening. For lengths, all dimensions shall be parallel to the center line of the roadway. The dimensions of handrails will not be taken into account

in measuring bridge lengths. Any bridge or highway grade separation structure shall embrace the substructure and superstructure and the approaches thereto, and such entrance plazas, interchanges, overpasses, underpasses, connecting highways and other structures which the Administration may deem necessary together with all property rights, easements, franchises and interests acquired by the Administration for the construction and operation of such bridge.

Certification— A document which states that the material and or work complies with the applicable specifications, and includes the actual test results to confirm the statement. The contents of the certification shall be on the Contractor's/vendor's/manufacturer's letterhead or approved document and shall be duly signed by a company officer. Certifications for metal products shall include a statement that the material was melted and manufactured in the United States.

Contract Time— The number of working or calendar days shown in the contract indicating the time allowed for the completion of the work contemplated in the contract. In case a calendar date of completion is shown in the contract in lieu of the number of working or calendar days, such work shall be completed by that date.

Controlling Operation— An operation of either major or minor proportions, which at the particular time under consideration has a controlling effect on the progress of the project as a whole.

County Roads— Any public road in Baltimore County, excluding State roads, title to which, or easement for the use of which, is vested in a public body and governmental agency by grant, condemnation, dedication or operation by law.

Culvert— Any structure not classified as a bridge which provides an opening under any roadway.

Domestic Manufacture— When referring to metallic items such as

structural steel, pipe, reinforcement, bridge rails, etc., the term Domestic Manufacture is intended to mean those items which have been melted and manufactured within the United States.

Drainage Ditch — In general, any open water course other than gutters, constructed as indicated in the Contract Documents.

Easement — A grant of a right of use of the property of an owner for a certain purpose at the will of the grantee.

Equipment — All machinery, tools, and apparatus necessary for the proper construction and acceptable completion of the work, together with the necessary supplies for upkeep and maintenance.

Extra Work — Work which was not required or provided for in the original Contract.

Extra Work Order — A written document amending the Contract by adding, deleting, or modifying the Contract to include price, time and/or work and/or conditions not previously addressed within the Contract.

Federal Agencies — Reference to any Federal agency or officer shall be deemed made to any agency or officer succeeding in conformance with law to the powers, duties, jurisdictions and authority of the agency or officer mentioned.

General Provisions – Contract provisions published as part of, or as a supplement to the Standard Specifications intended for general application and repetitive use.

Highway - see Road.

Highways Standards - Official “Book of Standards, Highways and Incidental Structures” edited by the Maryland State Highway Administration with the latest incorporated revisions issued on or before the date of advertisement of the Contract.

Holidays - In Baltimore County, holidays occur on:

| | |
|--------------------------|--------------------------------|
| January 1 | —New Year’s Day |
| 3rd Monday in January | —Martin Luther King’s Birthday |
| 3rd Monday in February | —Washington’s Birthday |
| 4th Monday in May | —Memorial Day |
| July 4 | —Independence Day |
| 1st Monday in September | —Labor Day |
| 2nd Monday in October | —Columbus Day |
| November 11 | —Veteran’s Day |
| 4th Thursday in November | —Thanksgiving Day |
| December 25 | —Christmas Day |

All days of General and Congressional Elections (not primary elections) throughout the State.

If a legal holiday falls on a Sunday, the following Monday shall be deemed and treated as a holiday.

If a legal holiday falls on a Saturday, the Friday immediately preceding shall be deemed and treated as a holiday.

Interim Specifications Addenda (ISA) – These addenda, as defined in TC 1.02, are only those items which are adopted by the County and are included in the Contract Documents.

Laboratory — The testing laboratory designated by the Engineer.

Landscaping (Highway) See “Roadside Development”

Median — The portion of a divided highway separating the traveled ways for traffic in opposite directions.

Minor Structure - Any structure not classified as a building, bridge or culvert. Minor structures include catch basins, fences, inlets, manholes, retaining walls, steps and other miscellaneous items.

Pavement Structure — The combination of subbase, and/or base course, and surface course placed on a subgrade to support and distribute the traffic load to the roadbed.

Plans — The official drawings issued by the Administration as part of the Contract Documents, including those incorporated in the Contract Documents by reference. These include the official approved plans, profiles, typical cross sections, working drawings and supplemental drawings or exact reproduction which show the location, character, dimensions and details of the work to be done.

Profile Grade — The trace of a vertical plane intersecting the top surface of the proposed wearing surface usually along the longitudinal center line of the roadway. Profile grade means either elevation or gradient of the vertical plane.

Ramp — A connecting roadway between two intersecting highways at a highway separation.

Right-of-Way — The area which has been acquired and reserved by the County for use in constructing the proposed improvement and appurtenances thereto. The area may be held by the County for use in constructing the proposed improvements and appurtenances thereto. The area may be held by the County in fee simple or may comprise easement rights — perpetual or temporary, recorded or unrecorded.

Road or Highway — Both the word *road* and the word *highway* include rights-of-way, surfaces, subgrades, shoulders, median dividers, drainage facilities and structures, roadway cuts, roadway fills, traffic barriers, bridges, highway grade elimination structures, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches and other structures forming an integral part of a street, road, or highway; including bicycle and walking paths and related storm water management facilities and structures. In addition, the terms include any other property acquired for the construction, operation, or use of the highway.

Roadbed - See “Subgrade (Highways)”

Roadside— A general term denoting the area adjoining the outer edge of the roadbed within the right-of-way. Extensive areas between the roadways of a divided highway may also be considered roadside.

Roadside Development— Work for the preservation of natural and landscaped areas and the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; suitable planting, and other improvements to increase the effectiveness and enhance the appearance of the highway.

Seal Coat— An application of asphalt material followed by an application of cover coat aggregate.

Shoulder— The portion of the roadbed contiguous with the traveled way for accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

Sidewalk— That portion of the roadway constructed for the use of pedestrians.

Slopes— The inclined graded areas beyond the shoulder and extending from the shoulders to the natural undisturbed surface of the ground.

Special Provisions— Specifications for any specific requirements peculiar to an individual project and not otherwise thoroughly or satisfactorily detailed in the Contract Documents.

Standard Details— See **Baltimore County Standard Specifications and Details for Construction**

Standard Detail Drawings— See **Baltimore County Standard Specifications and Details for Construction**.

Standard Specifications— see **Baltimore County Standard Specifications and Details for Construction**.

State Highway System— That system of roads which is owned, operated or maintained by the State Highway Administration.

State Road— Any public road included in the State highway system.

Structures— Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains, steps, fences and other features which may be encountered in the work and not otherwise classed.

Subbase— The layers of specified or selected material of designed thickness placed on a subgrade to support a base course or surface course.

Subgrade (Highways)— The top surface of a roadbed upon which the pavement structure, shoulders, and curbs are constructed.

Subgrade (Pipes)— The soil foundation layer upon which a pipe, cradle, or encasement is placed such that the prescribed invert elevation of the pipe will be achieved.

Subgrade (Structures)— The soil foundation layer upon which the structural foundation is built to achieve prescribed elevations of subsequent structural elements or controls.

Substructure— All of that part of the structure below bottoms of bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, together with the backwalls and wingwalls.

Superstructure— All of that part of the structure above bottoms of bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, except as noted above for substructure.

Surface Course— One or more layers of a pavement designed to accommodate the traffic load.

Traveled Way - The portion of the roadway for the movement of vehicles, exclusive of shoulders.

Trench - An excavation made for the purpose of installing or removing pipes, drains, catch basins, etc. and which is later refilled.

Utility Companies — Corporate entities which may have utility facilities in a proposed work area (e.g. BG&E and Bell Atlantic).

Working Day — A calendar day upon which, in the judgment of the Engineer, weather and soil conditions are such that the Contractor can advantageously work more than half of his current normal force for more than five consecutive hours on a controlling operation. Working days will not be charged on Saturdays, Sundays and County-recognized holidays unless the Contractor actually works more than five hours on a controlling operation.

Working Drawings — Stress sheets, shop drawings, fabrication details, erection plans, plans for false work, forms, centering, cribs, cofferdams and masonry layouts, pipe design, lay schedules, bending and placing drawings, and bar schedules for reinforcement steel and any other supplementary plans or similar data which the Contractor may be required to furnish.

TC-1.03 METRIC SYSTEM.

The Congress of the United States passed the Metric Conversion Act of 1975, Public Law 94-168 (the Metric Conversion Act) as amended by Section 5164 of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100-418 (The Trade and Competitiveness Act).

The act provides that each agency of the Federal Government implement use of the Metric System of measurement in its procurements, grants, and other business related activities.

The Administration recognizes this transition in the construction and related industries to the use of the Metric System of Measurement and has provided metric equivalents in an effort to increase the awareness of and compliance with the requirement. In the event a discrepancy should occur between the specified English and Metric units, the English unit shall prevail.

TC-1.04 LANGUAGE.

It shall be understood that when all such expressions such as “directed, specified, authorized, permitted, approval, acceptable or satisfactory” are used they are implicitly followed by the words “by the Engineer” or “to the Engineer”.

**TC SECTION 2
BIDDING REQUIREMENTS AND CONDITIONS**

TC-2.01 PROJECT CLASSIFICATION.

The Administration will estimate the cost of the Contract and classify it within one cost group and letter designation as follows:

| COST GROUP ESTIMATE | COST GROUP LETTER CLASS |
|--------------------------------|------------------------------------|
| Up to \$ 100 000 | A |
| \$ 100 001 to \$ 500 000 | B |
| \$ 500 001 to \$ 1 000 000 | C |
| \$ 1 000 001 to \$ 2 500 000 | D |
| \$ 2 500 001 to \$ 5 000 000 | E |
| \$ 5 000 001 to \$10 000 000 | F |
| \$10 000 001 to \$15 000 000 | G |
| Over \$ 15 000 001 | H |

The letter designation will be published as part of the Notice to Contractors.

TC-2.02 IN-STATE PREFERENCE.

The preference to in-State Contractors as defined in GP-2.20 (Tie Bids) does not apply to Administration Federal Aid projects.

TC-2.03 VALUE ENGINEERING CHANGE PROPOSALS.

The Contractor may submit to the Engineer, in writing, Value Engineering Change Proposals (VECP) for modifying the Contract Documents for the purpose of reducing the total cost of construction without reducing design capacity or quality of the finished product. The Engineer will then forward the proposal to the Chief of the Bureau of Engineering and Construction with recommended action. The decision to accept or deny the proposal will be made by the Chief of the Bureau of Engineering and Construction. The Chief of the Bureau of Engineering and Construction will be the sole judge of the acceptability of a VECP. The decision will be final. The County will not consider appeals once the final decision is made. If accepted by the County, net savings resulting from a VECP will be equally divided by the County and the Contractor. The Contractor may elect to pursue one of the following options:

Option 1 — Submit the detailed Plans, Specifications and estimate of savings;

Option 2 — Submit a written concept of the VECP for tentative approval and if accepted, submit the detailed plans, Specifications, and estimate for final approval at a later date.

Each VECP shall result in a net savings to the Contract cost without impairing essential functions and characteristics of the items or of any other part of the project, including but not limited to service life, reliability, economy of operation, ease of maintenance, desired aesthetics and safety.

As a minimum, the Contractor shall submit the following information before final approval of a VECP can be given:

- (a) A statement that the proposal is submitted as a VECP.
- (b) A statement concerning the basis for the VECP and benefits to the County together with an itemization of the Contract items and requirements affected by the VECP.
- (c) A detailed estimate of the cost under the existing Contract and under the VECP. (d) Proposed Plans, Specifications and recom

mentations as to how the VECP changes shall be accomplished.

(e) A statement as to the time by which an extra work order adopting the VECP must be issued so as to obtain the maximum cost effectiveness. Typically, the County will require four weeks to review and approve a VECP.

(f) The Contractor's engineering cost for the VECP.

The County will process the VECP in the same manner as prescribed for any other proposal which would necessitate issuance of an extra work order. The County may accept in whole or in part any VECP by issuing an extra work order which will identify the VECP on which it is based. The County will not be liable to the Contractor for failure to accept or act upon any VECP submitted pursuant to these requirements nor for any delays to the work attributable to any VECP proposal. Until a proposal is effected by work order, the Contractor shall remain obligated to the terms and conditions of the existing Contract. If an executed extra work order has not been issued by the date upon which the Contractor's proposal specifies that a decision thereon should be made, or any other date as the Contractor may subsequently have specified in writing, the proposal shall be deemed rejected. The extra work order effecting the necessary Contract modification will establish the net savings agreed upon, will provide for adjustment in the Contract prices and/or Contract time and will indicate the net savings to be equally divided between the Contractor and the County. The Contractor's costs for preparation of the VECP and the County's costs to review and administer the VECP will be deducted from the gross savings. The County reserves the right to include in the agreement any conditions it deems appropriate for consideration, approval and implementation of the proposal. The Contractor's 50 percent share of the net savings shall constitute full compensation for effecting all changes pursuant to the agreement. Acceptance of the VECP and performance of the work thereunder will not change the Contract time limit as a result of the VECP, unless specifically provided for in the work order authorizing the VECP.

The County expressly reserves the right to adopt a VECP for general use in Contracts administered by the County when it determines that the proposal is suitable for application to other Contracts. VECPs identical

or similar to previously submitted proposals will be eligible for consideration and compensation under these provisions if such proposals were not previously adopted for general application to other Contracts administered by the County. When a VECP is adopted for general use, compensation pursuant to these requirements will be applied only to those Contracts awarded and for which the subject VECP has been submitted prior to the date of adoption of the specific VECP.

Proposed changes in the basic design of a bridge or pavement type, or requiring modification to the right-of-way limits, will not normally be considered as an acceptable VECP. Quantity decreases or elimination of any Contract pay items as a result of changing field conditions, errors, etc. will not be considered as an acceptable VECP. If a VECP is based upon or similar to a change in the Plans, Specifications or Special Provisions adopted by the County prior to submission of the VECP, the Chief Engineer will not accept the proposal.

The requirements herein apply to all VECPs initiated and developed by the Contractor and which are identified as such by the Contractor at the time of its submission to the Engineer; however, nothing herein shall be construed as requiring the Engineer to consider or approve a VECP submitted by the Contractor.

Subject to the provisions contained herein, the County or any other public agency shall have the right to use all or part of any accepted VECP on other projects without obligation or compensation of any kind to the Contractor.

In the event a VECP is accepted by the County, the provisions of the Contract Documents which pertain to adjustment of Contract unit prices due to alterations of Contract quantities will not apply to the items adjusted or deleted as a result of effecting the VECP by extra work order.

TC-2.04 OWNER/OPERATOR.

For the purpose of labor compliance the term “Owner/Operator” shall be defined as being the individual who owns and operates their own vehicle.

The prevailing wage rates shall not apply to these individuals. However, they shall appear on the payroll of the Contractor or Subcontractor with the notation "Owner/Operator".

Employees of Owner/Operator shall be subject to prevailing wage rates and shall appear on a certified payroll.

TC-2.05 DEBARMENT/SUSPENSION.

Pursuant to the emergency regulations which were approved by the AELR Committee of the Maryland General Assembly on July 27, 1982, and which went into effect on July 28, 1982, the Maryland Department of Transportation, State Highway Administration has pursuant to applicable laws and regulation established a list of Debarred or Suspended Contractors.

The current list of Debarred or Suspended Contractors or Suppliers is available at the Maryland State Highway Administration, Cashier's Office, Room 110, 707 North Calvert Street, Baltimore, Maryland, 21203, for inspection by all interested parties.

TC - SECTION 3 SCOPE OF WORK

TC-3.01 GOVERNING ORDER OF CONTRACT DOCUMENTS.

The Contract Documents, including but not limited to the Standard Specifications, the Interim Specification Addenda, the Plans, Special Provisions and all supplementary documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In the event of any discrepancy between the drawing and figures written thereon, the figures, unless obviously incorrect, will govern over scaled dimensions. In the event of any discrepancy

between the Plans and the Standard Specifications, the Plans will govern. If there is a discrepancy between the Standard Specifications and Interim Specification Addenda, the Interim Specifications will govern. Special Provisions will govern over Standard Specifications, Interim Specification Addenda and Plans.

General Provisions will govern over all Contract Documents unless expressly provided for in the Contract.

TC-3.02 CONSTRUCTION DOCUMENTS TO SUCCESSFUL BIDDER.

The successful bidder on each Contract advertised by the County will be sent upon award of the Contract five sets of Plans, five Invitation for Bids Books and two sets of Cross Sections free of charge. Any additional Plan sets required by the Contractor may be purchased at the price noted in Notice to Contractors. Individual Plan sheets and individual sheets of Cross Sections or complete sets of plans or cross sections may be purchased at the prevailing price set by the County.

TC-3.03 CONTINGENT ITEMS.

Construction items for which quantities are identified in the “Summary of Quantity” sheet of the Plans, in the column headed “Contingent” or listed in the “Invitation for Bids Form” are established for the purpose of obtaining bids on one or more pay items that may be incorporated into the project.

The Engineer shall have sole discretion in determining whether and to what extent such items will be incorporated into the project. The Engineer may order incorporation of such items at any location within the Contract and at anytime during the work. These items may not be located on the Plans. The estimated quantities set out in the Invitation for Bids for such items are presented solely for the purpose of obtaining a representative bid price. The actual quantities employed may be only a fraction of, or many times the estimated quantity. Neither party shall make claims for additional compensation because of any increase, decrease or elimination of such items.

TC-3.04 WARRANTY OF CONSTRUCTION.

The warranty as defined under paragraphs (a) through (g) in GP-4.10 (Warranty of Construction) does not apply to Administration Contracts unless specified in the Invitation For Bids.

TC-3.05 RIGHTS IN AND USE OF MATERIALS FOUND ON THE PROJECT.

The Contractor may use on the project any excavated stone, gravel, sand or other material conforming to the requirements of the Contract Documents and approved by the Engineer.

When these materials are used for select, capping, modified, or common borrow and conform to the pertinent materials Specifications, payment will only be made at the Contract unit price for the class of excavation from which the materials are obtained.

In the event these materials are processed through a crushing, screening, washing or sorting plant for use as another pay item, the Contractor will be paid both for the excavation of such materials at the Contract unit price and at the Contract unit price for which the material is used. The Contractor shall replace at his own expense with other acceptable material all of the portion of the excavated material removed and used which was needed for use in the embankments, backfills, approaches or otherwise.

If however, these materials are not processed and paid for as described in the preceding paragraph, and their use creates a shortage of embankment or other material, the Contractor shall provide acceptable replacement material for all material needed for embankment, backfill, approaches or otherwise.

The replacement material shall be paid for at the unit price bid for the item that the Class I Excavation is used for, or the unit price bid for Class I Excavation, whichever is the lowest unit price bid.

The Contractor shall not excavate nor remove any material which is not within the limits of excavation, as indicated by the slope and grade lines, without written authorization from the Engineer.

TC-3.06 SAFETY HAZARDS IN CONFINED SPACES.

The Contractor shall be responsible for gas detection in and ventilation of confined spaces.

When procedures require workers to enter confined spaces such as steel or concrete box section type superstructures, the Contractor shall be cognizant of the potential health hazards, particularly when the interior is closed off at both ends.

It shall be the Contractor's responsibility to adhere to all applicable MOSHA regulations. The Contractor shall have available approved detecting devices and shall conduct tests for oxygen content and presence of gases, such as combustible gas, carbon dioxide, methane, carbon monoxide, and hydrogen sulfide whenever any fabrication, erection or inspection operations are to be performed within the confined spaces. The Contractor shall apply mechanical ventilation continuously to the confined space during occupancy to maintain the proper oxygen content. The Contractor shall conduct air tests periodically during the occupancy.

TC - SECTION 4 CONTROL OF WORK

TC-4.01 WORKING DRAWINGS.

(a) General. The Plans will be supplemented by working drawings as necessary to adequately control the work. All authorized alterations affecting the requirements and information given on the working drawings shall be in writing to the Engineer. When at any time reference is made to the working drawings, the interpretation shall be the working drawings as affected by all authorized alterations then in effect.

Working drawings will show details of all structures, lines, grades, typical cross section of roadway, general cross sections, location and designation of all units and elements.

The Contractor shall provide, at the Contractor's expense, all required working drawings and shall have them adequately checked, after which they shall be submitted to the Engineer for review. The Engineer may reject working drawings and return them for revisions, in which case the Contractor shall submit revised working drawings as required. No items involving the drawings shall be incorporated into the work until those drawings have been accepted for use by the Engineer, however, acceptance shall not relieve the Contractor of any responsibility in connection therewith. All working drawings shall be furnished in duplicate for preliminary examination for projects prepared by the Administration and in triplicate for projects prepared by consultant engineering firms for the Administration. After working drawings have been accepted for use by the Engineer, the Contractor shall furnish additional copies as requested.

All working drawings shall be on sheets measuring 22 by 36 inches and shall have a standard title block at the lower right corner approximately 4 by 8 inches (2 inches for the revision column on the left side and the remaining 6 inches for the title) indicating the following information in the order named:

- Name of Contractor (and Subcontractor, if applicable)
- Address of Contractor (and Subcontractor, if applicable)
- Sheet Title (Reinforcement Details, etc.)
- Name of Structure
- Crossing
- For (Baltimore County)
- By (Indicate name of Contractor's official or engineer, or other parties authorized to sign official documents.)

List all County Contract numbers, complete Federal Aid number, if any, and the date the drawing was completed. The left portion of the title block shall be headed "Revisions" and the space used as needed.

Working drawings for standard scuppers are not required. A sketch or statement specifying the type and number of standard scuppers required and the length of the downspout is acceptable.

(b) Working Drawings for Falsework Systems. Falsework systems plans (design and construction) shall be the responsibility of the Contractor, including submitting and obtaining written acceptance of the design and plans by the Engineer before erection. The Contractor shall utilize a professional engineer (P.E.) registered in the State of Maryland who has a minimum of five years experience in falsework design for bridge construction and repair. The falsework design calculations and plans shall be signed by the P.E. and bear the seal of the P.E. The submittal of the design and falsework plans shall include the P.E.'s resume showing evidence of the required experience.

The P.E.'s plans and design calculations shall evaluate and qualify all products and components including manufactured products and proprietary items for their intended service. Acceptance by the Engineer of falsework systems shall not in any way relieve the Contractor of the responsibility for the safety and adequacy of the design and construction for the falsework systems and operations, including all components. Every structure in the construction contract will require a separate falsework design analysis, separate plans and design submittals as set forth above. This applies even though structures appear to be identical.

Each falsework system shall be designed to have the capacity to support all vertical and horizontal loading with enough redundancy to prevent progressive failure. Vertical loading, differential settlement forces, live load where applicable and all horizontal lateral and longitudinal forces shall be taken into account. Unbalanced temporary loading caused by placement sequence shall also be provided for in the design. Adequate diagonal bracing in all planes shall be employed.

All falsework systems designs and plans shall provide for adequate foundations with bearings below the frost line or on rock or on piling and for possible settlement. If additional subsurface data is necessary, it shall be obtained and analyzed for proper design of the plans and performance of construction.

Falsework designs and plans shall include protection against impact from uncontrolled highway vehicles, accidental collision of a crane boom or other construction equipment and vehicles, traffic vibration, flood waters, high winds and any other envisioned contingent situations.

TC-4.02 FAILURE TO ADEQUATELY MAINTAIN PROJECT.

GP-5.12 (Failure to Maintain Entire Project) is not applicable to Administration Contracts. The provisions of this TC-4.02 shall apply. Failure on the part of the Contractor, at any time, to respond to the provisions of GP-5.11 will result in the procurement officer's immediately notifying the Contractor to comply with the required maintenance provisions. In the event the Contractor fails to proceed with corrections to unsatisfactory maintenance so as to conform to the provisions of GP-5.11 within four hours after receipt of such notice, the procurement officer may notify the Contractor to suspend all other work on the Contract until the unsatisfactory maintenance is corrected. In the event that the Contractor has failed to commence with adequate corrective measures within four hours after receipt of such notice the procurement officer may immediately proceed with adequate forces and equipment to maintain the project and the entire cost of this maintenance will be deducted from monies due the Contractor on the next monthly estimate. The Contractor is responsible for any injury or damage which may result from lack of maintenance of any refilled excavation at any time until final acceptance.

TC-4.03 USE PRIOR TO COMPLETION.

In addition to the provisions of GP-7.15 (Use and Possession Prior to Completion) the following will apply on Administration Contracts.

Upon written authorization of the Procurement Officer the Contractor may be relieved of maintenance during the time the County has taken possession. Any portion of the work which may be disturbed or damaged shall be restored at respective Contract prices for items involved, or on the basis of a predetermined arrangement entered into by the Contractor and Procurement Officer before the performance of the restoration work.

TC-4.04 WORK SUSPENSION.

The Engineer will have the authority to suspend the work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the workers or the general public; for failure to carry out the requirements of the Contract Documents, or as directed in conformance with the Contract Documents for conditions considered unsuitable for the prosecution of the work.

TC - SECTION 5 LEGAL RELATIONS AND PROGRESS

TC-5.01 INSURANCE.

The requirement of GP-7.14 (Liability Insurance) to submit certificate of insurance prior to starting work is modified for Administration Contracts to require the certificate of insurance to be submitted prior to the execution of the Contract.

The Contractor shall submit to the Chief of the Division of Construction Contracts Administration a Certificate of Insurance indicating that the Contractor carries Comprehensive General Public Liability and Property Damage Insurance in the amounts of at least five hundred thousand dollars (\$500 000) for the death of or injury to any person and one million dollars (\$1 000 000) for the death of or injury to two or more persons in any one occurrence; two hundred fifty thousand dollars (\$250 000) for property damage in any one occurrence with an aggregate property damage coverage of five hundred thousand dollars (\$500 000) for two or more occurrences. Such insurance shall be kept in full force and effect until all work has been satisfactorily completed and accepted.

Any policy exclusions must be shown on the face of the Certificate of Insurance.

The Certificate of Insurance shall be accompanied by a document (a copy of State License or letter from insurer) which indicates that the agent signing the certificate is an authorized agent of the insurer.

When specified in the Contract Documents, the Contractor shall carry the type and amounts of insurance in addition to any other forms of insurance or bonds required under the terms of the Contract and these Specifications.

The cost of the insurance will be incidental to the Contract lump sum price for Mobilization. If an item for Mobilization is not provided the cost of the insurance will be incidental to the other items specified in the Contract Documents.

Contractor and Railroad Public Liability and Property Damage Insurance shall be provided as specified in TC-6.03.

The Insurer shall immediately notify the Engineer in the event that the Contractor's insurance coverage lapses for any reason.

TC-5.02 NOTICE TO PROCEED.

Reserved

TC-5.03 SUBCONTRACTORS.

The subcontractors who are named in the Contractors bid and approved by the Administration and those approved when subsequently submitted shall perform the Contract items as approved by the Administration. Requests for permission to sublet, assign or otherwise dispose of any portion of the Contract shall be in writing and include the item number or numbers and the dollar value. The requirement in GP-1.05 (Subcontracting) to obtain the consent of surety prior to requesting subcontractor approval is not applicable on Administration Contracts. The Contractor shall give assurance that the minimum wage for labor, as specified in the Contract Documents shall apply to labor performed on all work sublet, assigned or otherwise disposed of in any way.

When a subcontractor has been approved by the Administration for the performance of specific items of work on the Contract, the Administration will not allow the Contractor to substitute another subcontractor, except in the event the Contractor requests in writing that the approved

subcontractor be relieved of the necessity of performance of the work. Any change of subcontractors shall be requested in writing by the prime Contractor and shall have the written concurrence of the previously designated subcontractor. Concurrence shall not be unreasonably delayed in the judgment of the Administration.

If a subcontractor does not perform to the satisfaction of the prime Contractor, the prime Contractor may request to be allowed to perform the work with his own forces or request that another subcontractor, mentioned by name, be substituted. When reasons submitted for the substitution of the subcontractor indicate that the change will be in the best interest of the Administration, approval of the request will be granted.

Roadside production of materials unless performed by the Contractor, shall be considered as subcontracting. This shall be construed to mean the production of crushed stone, gravel or other materials by means of portable or semi-portable crushing, screening or washing plants, established or reopened in the vicinity of the work for the purpose of supplying materials to be incorporated into the work on a designated project or projects.

The purchase of sand, gravel, crushed stone, crushed slag, batched concrete aggregates, ready mix concrete or other materials produced at and furnished from established and recognized commercial plants, together with the delivery of such materials to the site of the work by the producer or by recognized commercial hauling companies, shall not be considered as subcontracting.

TC-5.04 CULTURAL RESOURCES.

The Contractor should be aware of the potential of cultural resources on the project. During the construction phase, whenever anything that might appear to be a cultural resource of an historical, archeological, or paleontological nature is encountered, such an object shall not be disturbed. Work shall be stopped and rescheduled in a way that shall avoid not only the objects but also the area of discovery and the Engineer shall be notified at once. The Engineer will arrange for the evaluation of the situation by the appropriate authorities and for the ultimate disposition of

the matter, taking the evaluation of the situation by the appropriate authorities into consideration.

TC-5.05 DETERMINATION AND EXTENSION OF CONTRACT TIME.

The Contractor shall complete the work contracted for in an acceptable manner within the number of working days, calendar days or calendar date as specified in the Invitation for Bids.

The Engineer will make available to the Contractor each week a record showing the number of days charged to the Contract for the preceding week. The Contractor will be allowed one week in which to protest and 30 days in which to file a written statement, setting forth in what respects time charges are incorrect.

If satisfactory fulfillment of the Contract with extensions and increases authorized under GP-4.04 (Variations in Estimated Quantities) and changes specified in the General Provisions and Interim Specifications Addenda require the performance of work in greater quantities than specified in the Invitation for Bids, the Contract time allowed for performance may be adjusted based on the quantities, cost and the nature of the work involved.

The Contractor, under certain conditions, may be granted permission or ordered to suspend operations as defined in GP-8.07 (Suspension of Work) On working day Contracts, if the Contractor elects and is permitted to do any work, the time charged shall bear the same ratio to the total time allowed for the completion of the work, as the value of the work done during such time bears to the total value of the Contract. However, the resultant number of days to be charged for any particular month will never exceed the number of calendar days for that month, excluding Saturdays, Sundays or official holidays on which no work was performed by the Contractor on a controlling item.

Time used in performing work of an emergency nature ordered by the Engineer for the convenience of the traveling public or for the production or delivery of materials for storage, if performed during the period of

suspension, will not be charged against the Contract time.

Following the date on which all work has been completed, except those landscaping items on which work is restricted to specified seasons and when inspection and acceptance for maintenance is being deferred pending completion of those landscaping items on which work is not permissible at the time because such work is currently out of season, and for no other reason, no time will be charged against the Contractor until such time as it is again permissible to proceed with such work. However, time will be charged during any extensions of the specified season which may be granted the Contractor.

TC - SECTION 6 RESTRICTIONS AND PERMITS

TC-6.01 MOVING OF EQUIPMENT.

The Contractor will not be permitted to move over or operate on any road (except on the road under construction) any power shovels, rollers, concrete mixers, cranes, tractors or any other heavy equipment of weight or dimensions in excess of Maryland Motor Vehicle Law or Administration's regulations without first obtaining the usual permit. In case of permits for oversize and overweight vehicle movements, attention is directed to Maryland Motor Vehicle Laws requiring the Administration to collect a fee on every such vehicle movement using highways of the State. The payment of and securing of such permit is required irrespective of whether the movement is in connection with a subject Contract or for other purposes.

TC-6.02 RESTORATION OF SURFACES OPENED BY PERMIT.

The right to construct or reconstruct any utility in the highway or to grant permits for same at any time is reserved by the Administration.

Upon the presentation of a duly authorized and satisfactory permit which provides that all necessary repair work shall be paid for by the party to whom such permit is issued, the Contractor shall allow parties bearing such permits to make openings in the highway.

The Contractor shall, when ordered by the Engineer make in an acceptable manner all necessary repairs due to such openings, and such necessary work will be paid for as extra work, as provided in these Specifications, and will be subject to the same conditions as original work performed.

TC-6.03 RAILROAD HIGHWAY GRADE CROSSINGS AND SEPARATIONS.

When the Contractor is required to haul materials across the tracks of any railroad, or elects to do so, the Contractor shall make arrangements with that railroad for any new private crossings or for the use of any existing private crossing.

All work to be performed by the Contractor in the construction of railroad-highway separation structures on the railroad right-of-way shall be done in a manner satisfactory to the Engineer of the railroad company and shall be performed at such times and in such manner as not to unnecessarily interfere with the movement of trains or traffic upon the tracks of the railroad company. The Contractor shall use care and precaution in order to avoid accidents, damage, or unnecessary delay or interference with the railroad company's trains or other property. In addition to the insurance specified in TC-5.01 and when work covered under the Contract is to be performed within 50 feet of the rails of the railroad's tracks, the Contractor shall be required to carry Contractor and railroad public liability and property damage insurance as specified in the Contract Documents.

Prospective Bidders on Contracts crossing railroad right-of-way are advised that the railroad company will require the Contractor to obtain, pay for and have approved by the railroad, certain broad forms of public liability and property damage insurance policies before entering upon the railroad property. As a general rule, details of such policies are set forth in the Contract Provisions; but in case of omission from the Contract Provisions, the Contractor is hereby required to communicate with the railroad to ascertain the type of insurance required, if any, and make provisions for same in the Bid.

Unless otherwise specified, cost for the insurance policies whether described in the Contract Provisions or ascertained by the Contractor will not be paid for. The cost for the insurance will be incidental to the other items specified in the Contract Documents.

All work on portions of structures over railroad right-of-way shall conform to all rules and regulations of the owners of the right-of-way. The Contractor is hereby made responsible for acquiring full knowledge of these rules and regulations and complying therewith to the satisfaction of the owners of the railroad right-of-way.

TC-6.04 BRIDGES AND OTHER WORK IN OR OVER WATERS OF THE STATE.

All work in, on or over waters under control of the Department of the Army or the Environmental Protection Agency of the United States shall conform to all applicable Federal permits, rules and regulations. All such rules and regulations are hereby part of the Contract. The Contractor is cautioned and charged with the responsibility of obtaining complete knowledge thereof and compliance therewith.

The Contractor shall also comply with the provisions of all other applicable Federal, State and local laws, permits, rules and regulations, and is cautioned to become knowledgeable with any pertinent regulations of the Maryland Department of Natural Resources and Maryland Department of Environment. All such rules and regulations are also hereby part of the Contract.

TC-6.05 USE OF EXPLOSIVES.

All blasting operations, including the storage and handling of explosives and blasting agents, shall be performed in conformance with the applicable provisions of the Standard Specifications and all other pertinent Federal, State, and local regulations. Whenever explosives are used, they shall be of such character and in such amount as is permitted by the State and local laws and ordinances and all respective agencies having jurisdiction over them.

The Engineer will at all times have the authority to prohibit or halt the Contractor's blasting operations if it is apparent that through the methods being employed the required results are not being obtained, an unstable condition exists, or the safety and convenience of the public is being jeopardized.

(a) Blasting Plan Required. Not less than two weeks prior to commencing drilling and blasting operations, or at any time the Contractor proposes to change the drilling and blasting methods, the Contractor shall submit a Blasting Plan to the Engineer for review. The Blasting Plan shall contain the full details of the drilling and blasting patterns and controls the Contractor proposes to use. The Blasting Plan submittal is for quality control and record keeping purposes.

Review of the Blasting Plan by the Engineer shall not relieve the Contractor of the responsibility for the accuracy and adequacy of the plan when implemented in the field. If at any time during the progress of the work the method of drilling and blasting does not produce the desired result, the Contractor shall submit a revised blasting plan until a technique is arrived at that shall produce the desired results.

(b) Responsibility. Control of blasting is a major responsibility of the Contractor. He shall execute vibration control and shall at all times be responsible for damage caused by vibrations due to blasting or any of his other operations.

(c) Extraordinary care. When the use of explosives is necessary for the prosecution of the work, the Contractor shall use extraordinary care so as not to endanger life or property. Before the firing of any blast in areas where flying rock may result in personal injury or unacceptable damage to property or the work, the rock to be blasted shall be covered with approved blasting mats, soil, or other equally serviceable material, to prevent flyrock.

(d) Safeguard of Public. The Contractor must safeguard the traveling public during dynamiting operations. He shall use enough watchmen, flagmen, signs, etc. to warn motorists during blasting.

(e) Storage. The Contractor shall store all explosives in a secure manner

and shall clearly mark storage places “DANGEROUS - EXPLOSIVES”. The storage places must be in the care of competent watchmen at all times and all explosives shall be stored and handled according to the provisions of the statutes of the State of Maryland and local laws and ordinances.

(f) Permits & Insurance. Before any blasting is done, the Contractor shall apply for and obtain a blasting permit. Insurance shall be maintained and certified as specified in Section GP-7.14.

(g) Protection of Underground Utilities.

1. The Contractor shall ensure the protection of underground utilities. He shall notify each public utility company having structures close to the site of work of his intentions to use explosives. The notice must be given far enough in advance to enable the companies to take such steps as they deem necessary to protect their property from injury. Such notice does not relieve the Contractor of responsibility for any damage resulting from his blasting operations.

2. Excavation to the elevation of the top of the buried utility techniques. At and below the elevation of the top of the buried utility line, the vertical depth of blast holes shall be restricted to one-half the horizontal distance to the closest portion of the utility. The blast hole shall be restricted to a maximum of three inches, with no more than one hole per delay.

(h) Peak Particle Velocity. When blasting has to be done next to a structure, the Contractor shall ensure that the “Peak Particle Velocity” at the structure does not exceed 0.50 inches/second for frequencies less than 40 Hz. The “Peak Particle Velocity” is the maximum of the three-velocity components measured at a point with a three-component vibration recording instrument capable of producing a permanent record.

(i) Maximum charge weight. If a scaled distance, as defined below, of 70 or greater is used with minimum delays of 10 milliseconds, the following formula may be used to determine the maximum charge weight per delay which can be used without seismic instrumentation:

$$\text{Scaled Distance} = \frac{\text{Actual Distance to Damage Point in Feet}}{(\text{Charge Weight in Pounds per delay})^{1/2}}$$

$$\text{Charge Weight in pounds per Delay} = \frac{(\text{Actual Distance to Damage Point in feet})^2}{(\text{Scaled Distance})^2}$$

(j) Blast holes. Blast holes are to be limited to three (3) inches in diameter. Prepackaged material only shall be used with no free flowing explosive permitted.

(k) Use of Explosives Within State Road Right-of-Way.

1. The use of explosives is not permitted within rights-of-way of the Maryland State Highway Administration except when specifically allowed under the SHA permit or by amendment of the same. The Contractor shall conduct and perform all blasting operations according to the permit and/or any addenda issued.

2. Before using any explosives, notify the following office:

Utility Division
Maryland State Highway Administration
District No. 4
Brooklandville, Maryland 21022

Telephone (410) 321-3456

Record each blasting seismographically and send a copy of the report to the Highway District Utility Engineer at the above address.

(l) Use of explosives. The use of explosives is not permitted within railroad rights-of-ways except when specifically allowed under a railroad permit or by amendment of the same. All blasting operations shall be conducted and performed according to the permit and/or any addenda issued.

(m) Payment for blasting. Payment of all blasting operations, control measures and monitoring systems shall be included in the Unit Price bid

for each individual item for which blasting is required.

TC-6.06 AERIAL ELECTRIC LINES (750 volts or more).

The Contractor shall be aware that State law requires that a 10 foot radial clearance shall be maintained for all construction equipment and materials in relation to electric lines carrying 750 volts or more. Because the State law is more stringent than the Federal laws, the State law shall be considered the minimal distance.

The Contractor shall also be aware of, and comply with, all other Federal, State, County and local laws, utility company requirements and regulations, as specified in GP-7.01 (Compliance With Laws).

TC-6.07 LOAD AND SPEED LIMITATIONS.

The Bidder's attention is directed to the Annotated Code of Maryland, Transportation Article, Section 24-206, authorizing the appropriate County authorities of the counties listed below, to establish such load limits and appropriate speed limits on County roads as may be necessary to preserve the roads and provide adequately for public safety. The Bidder is advised to consult with the County Engineer in order to ascertain the extent of any restrictions applicable to County roads which the County authorities may propose to establish in connection with the construction of a Contract.

| COUNTIES WITH LOAD AND SPEED LIMITATIONS |
|---|
| Allegany (A) |
| Anne Arundel (AA) |
| Baltimore (B) |
| Carroll (Cl) |
| Frederick (F) |
| Harford (H) |
| Howard (HO) |
| Montgomery (M) |
| Prince Georges (PG) |
| St. Marys (SM) |

TC-6.08 HAZARDOUS MATERIAL.

If the Contractor encounters or exposes during construction any abnormal conditions which indicate the presence of a hazardous material or toxic waste, work in the area shall immediately be suspended and the Engineer notified. The Contractor's operations in this area shall not resume until permitted by the Engineer, however, the Contractor may continue working in other areas of the project, unless directed otherwise.

Abnormal conditions shall include, but not be limited to the presence of barrels, obnoxious or unusual odors, excessively hot earth, smoke, or any other condition which could be a possible indicator of hazardous material or toxic waste.

Disposition of the hazardous material or toxic waste shall be made in conformance with all applicable requirements and regulations. Where the Contractor performs necessary work required to dispose of these materials and no items have been identified in the Contract Documents, the work shall be performed under an extra work order.

For any material furnished on the project by the Contractor suspected to be hazardous or toxic the Engineer may require the Contractor to have it tested and certified to be in conformance with all applicable requirements and regulations. Material found to be hazardous or toxic shall not be incorporated into the work. The required testing will be determined by the Engineer and may include, but not be limited to, the EPA Toxicity Characteristic Leaching Procedure (TCLP) or its successor. The evaluation and interpretation of the test data will be made by the Engineer. Testing and certification shall be at the Contractor's expense.

TC-6.09 RECYCLED OR REHANDLED MATERIALS.

For recycled or rehandled material furnished on the project by the Contractor for use in embankment, base, subbase or drainage media, the Engineer may require the Contractor to have the material tested and certified to be in conformance with all applicable environmental requirements. The required testing will be determined by the Engineer and may include, but not be limited to, the EPA Toxicity Characteristic Leaching Procedure

(TCLP) or its successor. The evaluation and interpretation of the test data will be made by the Engineer and be based on the project environment. Testing and certification shall be at the Contractor's expense.

TC - SECTION 7 PAYMENT

TC-7.01 MEASUREMENT OF QUANTITIES.

For all items of work, other than those to be paid by lump sum, after the work is completed and before final payment is made the Engineer will make final measurements to determine the quantities of various items of work performed as the basis for final settlement. The Contractor in case of unit price items will be paid for the actual amount of work performed and for the actual amount of materials in place, in conformance with the Specifications as shown by the final measurements. All work completed under the Contract will be measured by the Engineer in conformance with the standards of weights and measures recognized by the National Bureau of Standards.

All longitudinal measurements for area will be made along the actual surface and not horizontally, and no deductions will be made for individual fixtures in the pavement having an area of 9 square feet or less. For all transverse measurements for area of base course and pavements, the dimensions to be used in calculating the pay area will be the neat dimensions shown on the Plans or ordered in writing by the Engineer.

Structure measurements will conform to the neat lines shown on the Plans or as ordered in writing, unless otherwise provided for elsewhere in the Specifications or Special Provisions.

Volumes of excavation, tamped fill and borrow pits will be calculated per cubic yard from the cross section and the use of average end area formulas. Volumes of other work such as masonry, removal of masonry, etc. will be calculated by using arithmetical formulas. Where the volume is

bounded by varying dimensions and there are no simple volumetric formulas applicable, frequent cross sections will be taken and the cubic yard volume computed from average end area formulas.

Cement will be measured by weight.

All items which are measured by the linear foot, such as pipe culverts, traffic barrier, underdrains, etc. will be measured parallel to the base or foundation upon which such structures are placed unless otherwise specified in the Contract Documents.

The term gauge when used in connection with the measurement of uncoated steel sheet and light plates shall mean the U.S. Standard Gauge, except that when reference is made to the measurements of galvanized or aluminum sheets used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing, the term gauge shall mean that specified in M 36, M 167, M 196 or M 197.

When the term gauge refers to the measurement of wire, it shall mean the Washburn & Moen wire gauge as referenced in the New Departure Handbook. A tolerance of plus or minus 0.003 inch shall apply.

The term ton shall mean the short ton consisting of 2000 pounds avoirdupois. All materials which are specified for measurement by the ton shall be weighed on accurate, approved scales conforming to the requirements of the National Bureau of Standards Handbook 44. A digital recorder and printout shall be required on all truck scales. The digital recorder shall produce a printed record of the gross, tare, net weights, the time, date, truck identification and project number. Provisions shall be made so that the scales may not be manually manipulated during the printing process. The system shall be interlocked to allow printing only when the scale has come to rest.

Except for computer operated scales, all weights shall be certified by a bonded weigh person supplied by the Contractor, producer or supplier. The security bond shall be one hundred thousand dollars (\$100 000).

If the material is shipped by rail, the car weight may be accepted but the

payment will be limited to the actual weight of material. Car weights will not be acceptable for material to be passed through mixing plants.

All materials for which measurements are obtained by the cubic yard shall be hauled in approved vehicles and measured at the point of delivery. No allowance will be made for the settlement of material in transit. Approved vehicles for this purpose shall be of any size or type acceptable to the Engineer, provided that the body is of such shape that the actual contents may be readily and accurately determined. Unless all approved vehicles are of uniform capacity, each approved vehicle must bear a plainly legible identification mark indicating the specific approved capacity. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.

When requested by the Contractor and approved by the Engineer in writing, material specified to be measured by the cubic yard may be weighed, and such weights will be converted to cubic yards for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the laboratory and shall be agreed to by the Contractor before such method of measurement of pay quantities will be approved by the Engineer.

Liquid asphalt material delivered for the project will be measured by volume in each railroad tank car, tank truck, distributor tank or drums in which it is delivered. The measurements will be taken when the asphalt material is of a uniform temperature and free from air bubbles, and the temperature of the material will be recorded.

The volumetric measurement of the asphalt material will be based upon a temperature of 60 F.

Reference is made to D 1250, Petroleum Measurement Tables.

Only the quantity of asphalt material actually placed in the work and accepted will be considered in determining the amount due the Contractor.

Timber will be measured by the thousand feet board measure (MBM)

actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term lump sum when used as an item of payment will mean complete payment for the unit of work described.

When complete structure or structural unit (in effect, lump sum work) is specified as the unit measurement, the unit will be construed to include all necessary fittings and accessories.

Rental of equipment will be measured in hours of actual working time, moving in and moving out costs, if any, and necessary traveling time of the equipment within the limits of the project except when special conditions make some other method of measurement desirable.

TC-7.02 PAYMENT ALLOWANCES FOR STORED MATERIALS.

Payment will not be allowed for stored materials except in specific instances approved in writing by the Engineer involving specially manufactured items or items requiring a long lead time for delivery. When the Contractor requests payment allowance for materials and the Engineer gives written approval of same, the following terms and conditions shall apply:

(a) For superstructure members delivered on the project site, an allowance of 100 percent of the material cost plus freight charges as invoiced may be made provided the cost does not exceed 90 percent of the Contract price of the applicable Contract item. The allowance will be based upon validated invoices or bills for material including freight charges, and a copy thereof shall be made a part of the documented records for the project.

(b) For reinforcement steel, piling, pipe, traffic barrier, signs and sign assemblies, and other nonperishable material in storage on the project, but excluding aggregates, cement, seed, plants, fertilizer or other perishable items, an allowance of 100 percent of the invoiced cost of the material plus freight charges to the Contractor may be made provided the cost

does not exceed 90 percent of the Contract price of the applicable Contract item. Such material shall be delivered and stockpiled at the project site, and has been tested by the Administration and found to have conformed to the Specifications or have been accepted under an approved certification program prior to the allowance.

(c) No allowance will be made for fuels, form lumber, falsework, temporary structures or other materials of any kind which will not become an integral part of the finished construction.

No payment for stored material will be made if it is anticipated that the material will be incorporated into the work within 30 days of the written request.

Only end product manufactured material or fully fabricated products that are awaiting installation or incorporation into the finished work are eligible for prepayment. Components, elements, or ingredients of a finished product are not eligible for prepayment.

(d) Material for which an allowance is requested shall be stored in an approved manner in areas within Baltimore County where damage is not likely to occur. If any of the stored materials are lost or become damaged in any manner, the Contractor shall be responsible for repairing or replacing the damaged materials. The value of the lost or damaged material will be deducted from the Contractor's subsequent estimates until replacement has been accomplished. The request for allowances for any materials stored on private property within Baltimore County shall be accompanied by a release from the owner and/or tenant of such property agreeing to permit the removal of the materials from the property without cost to Baltimore County.

When it is considered impractical to store materials on the actual project, the Engineer may approve storage areas in the vicinity of the actual project which will be considered as the project site.

When storage of the materials within Baltimore County is not practical, approval shall be obtained from the Engineer for storage elsewhere. Storage of materials outside Baltimore County will be subject to the condi-

tions set forth in this provision and limited to materials exceeding twenty-five thousand dollars (\$25 000), which are designed and fabricated exclusively for use on a specific project.

(e) Material for which payment has been made, either wholly or partially, shall not be removed from the approved location until such time that it is to be incorporated into the work unless authorized by the Engineer.

(f) The following items shall accompany the written request for payment:

(1) Consent of surety specifying the material type and the item(s) in which the material is to be used.

(2) Validated invoices with the signature of an officer of the company supplying the material showing actual cost.

(3) A notarized statement from the Contractor attesting that the invoices as submitted do not include charges or fees for placing, handling, erecting or any other charges or markups other than the actual material cost, sales tax(es), if applicable, and freight charges.

(4) Bills of lading showing delivery of the material. The request for allowances for any materials stored on property outside Baltimore County shall be accompanied by a release from the owner or tenant of such property agreeing to permit verification by the Division of Construction Contracts Administration that the material is stored at the approved location, and to permit the removal of the materials from the property without cost to Baltimore County.

(5) Inspection test reports, certifications and/or a written statement from the Division of Construction Contracts Administration attesting to the inspection and approval of the material.

Upon receipt of the above by the Engineer and verification by the Division of Construction Contracts Administration that the material is stored at the approved location, the Engineer will authorize payment.

The Contractor shall pay the material provider the amount shown on the

invoice within seven calendar days of receipt of payment from the Administration. Failure to make invoice payments as specified will be cause to deduct the monies from future estimates.

Copies of all pertinent data shall be made by the Contractor and distributed to the Division of Construction Contracts Administration for retention as part of the documented records for the project.

TC-7.03 FORCE ACCOUNT WORK.

Reserved

TC-7.04 PROGRESS PAYMENTS.

Reserved

TC-7.05 FINAL ACCEPTANCE AND FINAL PAYMENT.

Reserved

TC-7.06 LATE PAYMENTS.

Reserved

TC-7.07 ELIMINATED ITEMS.

Should any Contract items contained in the Invitation for Bids be found unnecessary for the proper completion of the work contracted, the Engineer may, upon written order to the Contractor, eliminate such Contract items from the Contract and no allowance will be made for items so eliminated in making final payment to the Contractor except for material costs incurred prior to notification of the elimination of the items.