EXHIBIT 1

ABBREVIATIONS AND DEFINITIONS

(Attached.)

EXHIBIT 2

DEVELOPER'S PROPOSAL COMMITMENTS, ATCs, AND PROPOSAL SCHEMATICS

Appendix 1: **Proposal Commitments**

Appendix 2: **ATCs**

Appendix 3: **Proposal Schematics**

Exhibit 2
Appendix 1

Proposal Commitments

SUBSTANTIAL COMPLETION DEADLINE(S)

Description	Substantial Completion Date
Proposal Commitment Date for Substantial Completion of the Project.	NTP1 plus 1,095 calendar days

I. KEY SUBCONTRACTORS

Developer commits to providing the following Key Subcontractors to serve in their respective identified roles

Subcontractor	Status
Lead Design Firm: Kellogg Brown & Root Services (KBR)	Tier 1
Quality Control Management: KBR	Tier 1
Quality Assurance Management: URS Corporation and Professional Services Industries Inc	Tier 1
Key Task Leader – Geotechnical: Fugro Consultants Inc	Tier 2
Key Task Leader – Hydraulics and Hydrology: Omega Engineers, Inc	Tier 2
Key Task Leader – Structural: Walter P. Moore and Associates Inc	Tier 2
Key Task Leader – Environmental: Hicks & Company Environmental / Archeological Consultants	Tier 2
Key Task Leader – Utilities: CSJ Engineering Associates, Inc	Tier 1
Key Task Leader – Right of Way: Universal Field Service, Inc	Tier 1

II. KEY PERSONNEL

Developer commits to providing the following individuals to serve as Key Personnel:

Name	Key Personnel Position
Rob Anderson	Project Manager
Alfonso Fernandez	Construction Manager
Gordon Peterson, PE	Lead Quality Manager
Stan Reece, GS	Environmental Compliance Manager
Jamshid Jahangiri, PE	Design Manager
Emmanuel Koukastsikas, PE	Lead Roadway Design Engineer
Santiago Castaneda, PE	Lead Drainage Engineer
Lloyd Wolf, PE	Lead Bridge Design Engineer
Steve Sheppard, PE	Professional Services Quality Control Manager / Design Quality Manager
Cheryl Bennett, SR/WA	Right of Way Manager/ROW Acquisition Manager
John Schulte	Utility Manager
Mohammad Sanjbi, PE	Construction Quality Acceptance Manager
David Luhring, PE	Construction Quality Control Manager
Gabriel Acuna	Public Information Coordinator
Gerardo Lopez, CHST	Safety Manager

III. OTHER PERSONNEL

Developer commits to providing the following other personnel:

Name	Personnel Position
Jason Walker	Third Party Coordinator
John Speed, P.E.	Design Quality Assurance Manager
Joe Padon	Design Coordinator
Adam Mueller	Design-Construction Coordinator
Steve Metro, P.E.	Railroad Design Engineer
Justin Hansen	Railroad Superintendent

IV. ADDITIONAL PROPOSAL COMMITMENTS

The following Proposal Commitments are in addition to the requirements set forth elsewhere in the Contract Documents and are therefore express requirements of the Agreement

No.	Proposal Location	Proposal Commitment
1	Vol 1, Section 3.1, Para 1, Page 1	Developer will self-perform more than 75 percent of the construction on the Project.
2	Vol 1, Section 3.1, Para 9, Page 2	Personnel set forth in Appendices 1/3 and 1/4 to Development Agreement Exhibit 2 will be available immediately upon the applicable Notice to Proceed. Developer commits to maintaining their availability 100% during applicable activities.
3	Vol 1, Section 3.1, Para 1, Page 7	Developer will co-locate the Lead Quality Manager, Professional Services Quality Control Manager / Design Quality Manager, and the Construction Quality Acceptance Manager in El Paso.
4	Vol 1, Section 3.1, Para 5, Page 7	All Developer quality managers will have the authority to affect changes in production procedures in the event of any failure to comply with the requirements of the Technical Provisions or the processes described in the QMP. The quality managers will also have the obligation to issue nonconformance reports and to stop work for quality related issues, if warranted.
5	Vol 1, Section 3.1, Para 2, Page 8	Developer will implement the additional meetings set forth in Attachment 1 to this Appendix to Development Agreement Exhibit 2.
6	Vol 1, Section 3.1, Para 6, Page 8	During the design, construction and maintenance of the Project, Developer will continue to include additional firms to exceed the project requirements, and will use a “two step” subcontracting and purchasing plan to proactively promote Subcontractor and supplier participation for this Project. The first step: advertisements are placed in various local and community-based papers along with direct-mail letters inviting Subcontractors (including DBE firms) to bid on elements of the project. The second step: Developer will follow up the first step using telephone inquiries and by providing bidding documents. Developer will also help DBE/HUB firms determine quantities and develop a scope of work during the bidding process. Subcontractors and material suppliers will be selected based on a review by Developer’s management staff. The selection process will specifically address the firms’ qualifications, their knowledge of the Project, their commitment to working with other contractors and other DBE firms, their quoted price, their staff and available resources to perform the work, and the current status of their DBE certification.
7	Vol 3, Exhibit 2	Developer will pay the BNSF and UP review expedite fee on all submittals to the railroads.
8	Vol 3, Section 4.1.1.2(b), Para 4, Page 5	Developer will design and detail all bridge structures for a minimum 100-year design life.
9	Vol 3, Section 4.1.1.4(a), Bullet 2, Page 8	Developer will construct the proposed Loop 375 bridge over CBP facilities with a minimum vertical clearance of 24 ft. 6 in.

No.	Proposal Location	Proposal Commitment
10	Vol 3, Section 4.1.1.4(a), Para 3, Page 8	Developer will comply with all CBP requirements regarding the removal of existing CBP security elements and the installation, testing and commissioning of reused CBP elements and new CBP elements.
11	Vol 3, Section 4.1.1.4(a), Para 3, Page 8	Developer will comply with all CBP requirements regarding the CBP patrol road near International Bridge.
12	Vol 3, Section 4.1.1.4(c), Para 1, Page 9	Developer's Third Party Coordinator will invite CBP to participate in coordination and activity meetings.
13	Vol 3, Section 4.1.1.4(d), Para 3, Page 9	All work activities and access routes will be planned to avoid interference with CBP operations and inspection stations.
14	Vol 3, Section 4.1.1.5(b), Para 5, Page 10	At the onset of the Project, Developer staff will meet with TxDOT and other Project personnel to thoroughly review all activities and schedules.
15	Vol 3, Section 4.1.1.5(b), Para 2, Page 12	Throughout the entire acquisition process, Developer will maintain periodic work product reviews along with spot audits of payments and documentation.
16	Vol 3, Section 4.1.1.5(c), Para 4, Page 12	Developer will provide bilingual communication with property owners and eligible displacees.
17	Vol 3, Section 4.1.1.6(a), Para 3, Page 13	When an unidentified utility is discovered during design or construction, work will continue in other areas of the Project. After resolution of the unidentified utility conflict, and should the conflict result in a delay to the Critical Path as defined in Development Agreement 4.5, Developer will prepare and submit a Recovery Schedule.
18	Vol 3, Section 4.1.1.6(b), Para 4, Page 13	TxDOT will be invited to all meetings with Utility Owners.
19	Vol 3, Section 4.1.1.6(b), Para 4, Page 13	Developer will continuously update a utility conflict matrix throughout the design and construction phases.
20	Vol 3, Section 4.1.1.8(c), Para 1, Page 17	Developer will not demolish any existing or temporary drainage system until a replacement temporary system or the proposed system is operational.
21	Vol 3, Section 4.1.1.8(d), Para 3, Page 17	Developer will design the Project such that any impacts to FEMA regulated floodplains will be minimized.
22	Vol 3, Section 4.1.1.8(e), Para 1, Page 18	Before the right-of-way acquisition process even starts, the design team (Lead Roadway Design Engineer, Lead Bridge Design Engineer, and Lead Drainage Engineer) and the construction team (Construction Manager) will develop an interrogatory delineating the right-of-way, permanent easements, and temporary easements needs for each parcel. The interrogatory will be a checklist delineating the intent of the taking, when it is needed for construction and any additional activities that may be required (environmental ROW mapping, relocation, etc).
23	Vol 3, Section 4.1.1.9(b), Para 1, Page 20	Developer will develop and maintain a project environmental protection recognition awards program that is similar to its safety recognition awards program.
24	Vol 3, Section 4.1.1.11(b), Para 4, Page 26	Developer will add shields to the high mast assemblies to minimize infringement into any potentially affected adjacent residential area.

No.	Proposal Location	Proposal Commitment
25	Vol 3, Section 4.2.1(b.ii), Para 7, Page 45	Developer's key Subcontractors will co-locate and actively participate in meetings and task forces.
26	Vol 3, Section 4.2.1(b.ii), Para 7, Page 45	Additionally, every Subcontractor involved in the Project will be assigned a Developer engineer responsible for monitoring performance and completing monthly evaluations of Subcontractor safety, performance, schedule, quality and resources.
27	Vol 3, Section 4.2.1(b.iii), Para 1, Page 47	To ensure that a positive perception of the Project is maintained and schedule delays are prevented, Developer will appoint a Third Party Coordinator.
28	Vol 3, Section 4.2.1(b.iii), Para 3, Page 47	Developer will deploy two additional personnel for railroad activities: (1) Railroad Design Engineer, and (2) a railroad superintendent.
29	Vol 3, Section 4.2.1(b.iii), Para 4, Page 47	Developer will develop and maintain a communication matrix that identifies various stakeholders and interested parties for each utility, and categorizes each type of issue that requires communication between those parties. The communication matrix will ensure all parties are in the information exchange including individuals who are receiving the utility services, plus design disciplines, construction, and Utility Owners.
30	Vol 3, Section 4.2.1(j.c), Para 5, Page 52	Developer will implement a "Don't Walk By" program, where everyone is responsible for their own safety and the safety of their fellow employees.
31	Vol 3, Section 4.2.3 (a), Para 1, Page 55	Developer will conduct traffic analyses before and after scheduled traffic switches. The analyses will determine the adequacy of traffic control plans and if additional traffic control devices are required.
32	Vol 3, Section 4.2.4(a), Para 3, Page 57	Developer's project controls team will include a document control specialist with EDMS experience.
33	Vol 3, Section 4.2.4(a), Exhibit 33, Page 58	Developer will use a 120-day look-ahead schedule as one of its schedule management tools.
34	Vol 3, Section 4.2.4(a5), Para 4, Page 60	Should the proposed monthly update indicate a delay to the Critical Path as defined in Development Agreement 4.5, Developer will prepare and submit a Recovery Schedule.
35	Vol 3, Section 4.2.4(a5), Para 6, Page 60	Developer will manage Subcontractors' resources, work activities, and durations as closely as Developer's own self-performed work. Subcontractors will be required to attend schedule meetings and provide accurate updated work plans, durations, and resources for incorporation into Developer's Project master schedule.
36	Vol 3, Section 4.2.5 (b), Para 1, Page 62	"Transcreation" techniques will be integrated into Developer's Public Information and Communications Plan.
37	Vol 3, Section 4.2.5 (b.1), Para 1, Page 63	Developer's Public Information Coordinator will co-locate in the local project office and will maintain standing daily communication with the Project Manager.
38	Vol 3, Section 4.2.7 (a), Para 5, Page 66	Developer's project design manual will outline the procedures for team coordination, communication and meetings, progress reports, quality control and assurance, and document control.

No.	Proposal Location	Proposal Commitment
39	Vol 3, Section 4.2.7 (a), Para 2, Page 68	Developer will prepare minutes of the weekly task force meetings and distribute to Project participants.
40	Vol 3, Section 4.2.7 (a), Para 4, Page 68	Developer will maintain a project portal – a web page that provides TxDOT with details of daily activities on the Project.
41	Vol 3, Section 4.2.9(a,1), Page 70	Developer will support DBE and small business cash flow by removing the standard "paid when paid" subcontract clause and paying for completed work upon receipt of an invoice. Taking this a step further, Developer will also allow DBEs and small businesses to invoice on a weekly basis rather than on the standard monthly basis.
42	Vol 3, Section 4.2.9 (a,3), Para 1, Page 71	Developer will also provide job specific training such as trench safety, fall protection, flagging, and confined space as needed. Developer will also provide employees with advancement opportunities by utilizing the Federal / State On-the Job training program. Training will be relevant to tasks – for example trench safety training will be provided for drainage and footing crews, fall protection training will be provided for bridge crews, and similar.
43	Vol 3, Section 4.2.9 (b), Para 2, Page 71	Developer will establish a mentoring plan to provide training and assistance to DBE and other small businesses. As part of this plan, a mentor program will be established. The mentor program will be based on TxDOT's LINC program for Disadvantaged Business Enterprises. Eligible firms will receive assistance from Developer's DBE Coordinator and other Developer personnel to help them in bidding and performing work on the Project.
44	Vol 3, Section 4.3(c), Para 6, Page 77	Developer's QA activities will be performed by URS, the Design Quality Assurance Firm (DQAF), under the direction of the DQAM. Discipline specific reviewers from the DQAF will perform reviews of all design submittals to assure that contract requirements, criteria, and TxDOT standards have been incorporated into the design. The DQAM will also perform audits of the quality control process to ensure that quality control procedures are being followed by the design team. The DQAM will work directly with the PSQCM to take corrective action and provide additional training if deficiencies in the quality control process occur. Additionally, the DQMP will be updated to incorporate lessons learned into the design quality control process for continuous improvement. The DQAM and PSQCM will be key members of the quality task force.
45	Vol 3, Section 4.3(c), Para 5, Page 78	Developer will utilize the TxDOT source inspection program for materials sources, mix designs and fabrication facilities.
46	Vol 3, Section 4.3(c), Para 7, Page 78	The CQAM will maintain a log of engineering judgments. These judgments are decisions involving specification interpretation and material test result analysis not meeting requirements.
47	Vol 3, Section 4.3(c), Para 1, Page 79	Developer will use SharePoint, or a similar system approved by TxDOT, for all document control including storage and workflows.

ATTACHMENT 1 to Appendix 1 to Exhibit 2

Meeting / Description	Frequency	Project Manager	Construction Manager	Superintendents and Foremen	Design Manager	Lead Discipline Engineers	Lead Quality Manager	Safety Manager	ECM	DQAM	PSQCM	Public Information Officer	Maintenance Manager	Maintenance QC Manager	CQAM	TxDOT	Subcontractors
Safety Meetings: These meetings will focus on training and safe work practices for upcoming activities. Before beginning work in the field, foremen will conduct a “safety huddle” every morning based on their pre-job safety analysis of each day’s work operations	Weekly / Daily	P	P	P				L					P			P	P
Task Force Meetings: During the design process, each discipline (i.e. roadway, drainage, structures, traffic, and utilities) will conduct a series of task force meetings. The objectives of the Task Force Meetings are to review the design progress, issues, and issue resolution. The Task Force is co-led by a Developer construction professional and a Developer design team professional engineer. The Task Force leaders will develop the agenda, assign and track action items and maintain project meeting minutes.	Weekly	P	P	L	P	L	P		P	P	P		P		P	P	P
Interdisciplinary Meetings: Developer will hold weekly meetings with the discipline leads to review key decisions, issues, and ideas of the previous week. These meetings will promote interdisciplinary communication to achieve constructability, maintainability, safety, and quality. The current status of the design will also be reviewed and compared to the project’s schedule.	Weekly	P	P		L	P	P		P	P	P		P		P	P	P

Meeting / Description	Frequency	Project Manager	Construction Manager	Superintendents and Foremen	Design Manager	Lead Discipline Engineers	Lead Quality Manager	Safety Manager	ECM	DQAM	PSQCM	Public Information Officer	Maintenance Manager	Maintenance QC Manager	CQAM	TxDOT	Subcontractors
Constructability Review Meetings: The Developer construction team will review every plan submittal for safety, constructability, maintainability and cost effectiveness. Developer will track comments and incorporate them into the final plans. These meetings are led by the Design/Construction Coordinator.	Per Submittal	P	L	P	P	P	P		P	P	P		P		P	P	P
Over-the-Shoulder Review Meetings: At any time, a group of individuals, including TxDOT, can get together for over-the-shoulder reviews and meetings. These informal meetings can help brainstorm ideas, avoid redesigns, review contract requirements, and coordinate Design Quality Control and Design Quality Acceptance activities.	As Needed	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Comment Resolution Meetings: The Professional Service Quality Control Manager conducts a formal review of each submittal with TxDOT and the DQAM. Each comment/issue is addressed and resolved one at a time.	Per Submittal	P	P	P	P	P	P		P	P	L				P	P	P

Meeting / Description	Frequency	Project Manager	Construction Manager	Superintendents and Foremen	Design Manager	Lead Discipline Engineers	Lead Quality Manager	Safety Manager	ECM	DQAM	PSQCM	Public Information Officer	Maintenance Manager	Maintenance QC Manager	CQAM	TxDOT	Subcontractors
Schedule Meetings: Developer's Project Manager, Design Coordinator, Design Manager, Design/Construction Coordinator, Superintendent/ Construction Manager, Project Superintendent and Project Scheduler will meet to monitor and update the progress of the design and construction schedules. These meetings will refine and synchronize the design and construction schedules.	Weekly	L	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Construction Meetings: Developer's construction team will meet weekly with TxDOT representatives to present the look-ahead schedule, and discuss quality and construction progress.	Weekly	P	L	P				P	P	P	P	P	P		P	P	P
Project Status Meetings: Developer's project management team will meet weekly with TxDOT to provide progress and to discuss issues concerning design, construction, quality, safety, community relations and environmental compliance.	Weekly	L	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Meeting / Description	Frequency	Project Manager	Construction Manager	Superintendents and Foremen	Design Manager	Lead Discipline Engineers	Lead Quality Manager	Safety Manager	ECM	DQAM	PSQCM	Public Information Officer	Maintenance Manager	Maintenance QC Manager	CQAM	TxDOT	Subcontractors
Partnering: Developer is committed to an effective partnering relationship among the project stakeholders. The partnering workshops will strive to create a high level of commitment, communication, trust and cooperation among the Developer team and TxDOT that will promote the project's success. Commitment will begin with the top levels of management and be equally held by all members of the Project team. Developer will establish a specific partnership charter that includes a mission statement and common goals and objectives to successfully execute the plan	Quarterly	L	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Note: L = meeting lead; P = meeting participant

Appendix 2

Developer's ATCs

The following table lists Developer's Alternative Technical Concepts (ATCs), which are described in further detail in the ATC submittals that Developer may incorporate into the Project. The Deviations set forth in the ATC submittals are approved by TxDOT subject to satisfaction of any conditions set forth in the approval letters from TxDOT. Such Deviations, subject to satisfaction of any listed "conditions," expressly supersede any conflicting provisions in the Technical Provisions, as provided in Section 1.2.2 of the Development Agreement. Developer is responsible for and bears the schedule and cost risk associated with (a) any ATC that would require further environmental evaluation of the Project, (b) obtaining any third party approvals and/or Governmental Approvals required to implement the ATC, and (c) the acquisition of any additional right of way, and obtaining any necessary Environmental Approvals required to implement the ATC. Moreover, Developer is not entitled to a Change Order for time or money as a result of (i) Site conditions (i.e., Hazardous Materials, Differing Site Conditions, geotechnical issues, Utilities, etc.) on such additional right of way, or (ii) any delay, inability or cost associated with the acquisition of right of way required to implement the ATC. The ATCs, to the extent utilized by Developer, shall otherwise meet all requirements of the Technical Provisions.

ATC No.	Brief Description	Date ATC Initially Submitted to TxDOT	Date of Final ATC Determination Letter
ATC-1 Part A	Realignment of Loop375 from Station 185+00 to Station 266+50	1/15/2014	3/11/2014
ATC-1 Part B	Adjustment of Loop 375 Vertical Profile from Station 266+50 to Station 305+00	1/15/2014	3/11/2014
ATC-7	Use of Varying Bridge Beam Depths	1/22/2014	3/11/2014
ATC-8	Combining Tolling and ITS Duct Banks into a Single Trench	1/22/2014	3/11/2014
ATC-12 Option 4	Utilization of Existing Conduit from Santa Fe Street to US 54	1/29/2014	3/11/2014

ATC No.	Brief Description	Date ATC Initially Submitted to TxDOT	Date of Final ATC Determination Letter
ATC-12 Option 5	Utilization of Existing Duct Bank and 72-Strand Fiber optic Cable from US 54 to Socorro Road	1/29/2014	3/11/2014
ATC-14	Obtain Developer-Designated ROW to Eliminate Retaining Walls from Station 185+00 to Station 300+00	2/14/2014	3/11/2014
ATC-3*	Adjustment of Paisano Drive Vertical Profiles to Avoid Reconstruction of Cotton Street Bridge	1/7/2014	3/11/2014
ATC-4*	Revision of Configuration of Loop 375/Paisano Drive Direct Connectors	1/13/2014	3/11/2014

* ATC-3 and ATC-4 were not submitted by Developer; however, the Parties agree that all conditions apply as set forth above.

Appendix 3
Proposal Schematic

The attached CD contains Developer's Schematics, which formed the basis of Developer's Proposal.

EXHIBIT 3

FEDERAL REQUIREMENTS

Exhibit Description	No. of Pages
Attachment 1 – Federal Requirements for Federal-Aid Construction Projects	2
Attachment 2 – FHWA Form 1273	22
Attachment 3 – Federal Prevailing Wage Rate	4
Attachment 4 – Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)	6
Attachment 5 – Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity	5
Attachment 6 – Certification Regarding Use of Contract Funds for Lobbying	1
Attachment 7 – Compliance with Buy America Requirements	2
Attachment 8 - Certification of Nondiscrimination in Employment	1
Attachment 9 - On-the-Job Training Program	1

ATTACHMENT 1 TO EXHIBIT 3

FEDERAL REQUIREMENTS FOR FEDERAL-AID CONSTRUCTION PROJECTS

GENERAL. — The Work herein proposed will be financed in whole or in part with Federal funds, and therefore all of the statutes, rules and regulations promulgated by the Federal Government and applicable to work financed in whole or in part with Federal funds will apply to such work. The "Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273," are included in this Exhibit 3. Whenever in said required contract provisions references are made to:

(a) "contracting officer", or "authorized representative", such references shall be construed to mean TxDOT or its Authorized Representative;

(b) "contractor", "prime contractor", "bidder", "Federal-aid construction contractor", "prospective first tier participant", or First Tier Participant such references shall be construed to mean Developer or its authorized representative;

(c) "contract", "prime contract", Federal-aid construction contract" or "design-build contract" such references shall be construed to mean the Development Agreement between Developer and TxDOT for the Project;

(d) "subcontractor", "supplier", "vendor", "prospective lower tier participant" "lower tier prospective participant", Lower Tier participant" or "lower tier subcontractor", such references shall be construed to mean any Subcontractor or Supplier; and

(e) "department", "agency", "department or agency with which this transaction originated" or "contracting agency ", such references shall be construed to mean TxDOT, except where a different department or agency or officer is specified.

PERFORMANCE OF PREVIOUS CONTRACT. — In addition to the provisions in Section II, "Nondiscrimination," and Section VI, "Subletting or Assigning the Contract," of the Form 1273 required contract provisions, Developer shall comply with the following:

The bidder shall execute the CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS located in the proposal. No request for subletting or assigning any portion of the contract in excess of $10,000 will be considered under the provisions of Section VI of the required contract provisions unless such request is accompanied by the CERTIFICATION referred to above, executed by the proposed subcontractor.

NON-COLLUSION PROVISION. — The provisions in this section are applicable to all contracts except contracts for Federal Aid Secondary Projects. Title 23, United States Code, Section 112, requires as a condition precedent to approval by the Federal Highway Administrator of the contract for this work that each bidder file a sworn statement executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. A form to make the non-collusion affidavit statement required by Section 112 as a certification under penalty of perjury rather than as a sworn statement as permitted by 28 U.S.C., Sec. 1746, is included in the Proposal.

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN SUBCONTRACTING. — Part 26, Title 49, Code of Federal Regulations applies to the Project. Pertinent sections of said Code are incorporated within other sections of the Agreement and the TxDOT Disadvantaged Business Enterprise Program adopted pursuant to 49 CFR Part 26.

CONVICT PRODUCED MATERIALS

a. FHWA Federal-aid projects are subject to 23 CFR § 635.417, Convict produced materials.

b. Materials produced after July 1, 1991, by convict labor may only be incorporated in a Federal aid highway construction project if such materials have been: (i) produced by convicts who are on parole, supervised release, or probation from a prison, or (ii) produced in a prison project in which convicts, during the 12 month period ending July 1, 1987, produced materials for use in Federal aid highway construction projects, and the cumulative annual production amount of such materials for use in Federal aid highway construction does not exceed the amount of such materials produced in such project for use in Federal aid highway construction during the 12 month period ending July 1, 1987.

ACCESS TO RECORDS

a. As required by 49 CFR 18.36(i)(10), Developer and its subcontractors shall allow FHWA and the Comptroller General of the United States, or their duly authorized representatives, access to all books, documents, papers, and records of Developer and subcontractors which are directly pertinent to any grantee or subgrantee contract, for the purpose of making audit, examination, excerpts, and transcriptions thereof. In addition, as required by 49 CFR 18.36(i)(11), Developer and its subcontractors shall retain all such books, documents, papers, and records for three years after final payment is made pursuant to any such contract and all other pending matters are closed.

b. Developer agrees to include this section in each Subcontract at each tier, without modification except as appropriate to identify the subcontractor who will be subject to its provisions.

ATTACHMENT 2 TO EXHIBIT 3

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

FHWA Form 1273

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FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

I. GENERAL

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

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

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

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

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

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

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

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

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the

Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

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

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

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

b. The contractor will accept as its operating policy the following statement:

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

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

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

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

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

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

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

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

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without

regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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

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

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

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

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

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

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

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

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.
The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

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

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

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

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

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
(ii) The classification is utilized in the area by the construction industry; and
(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

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

plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

4. Apprentices and trainees

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).
Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.
The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency
shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the

construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

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

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the

Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

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

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

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

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

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

renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT 3 TO EXHIBIT 3

FEDERAL PREVAILING WAGE RATE

TEXAS COUNTIES IDENTIFIED BY
WAGE RATE ZONES: 7, 8, 11, 12, 14, 16, 18, 34, 35, 37, 38, 40, 41, 54, 56, 63

County Name	Zone	County Name	Zone	County Name	Zone	County Name	Zone
Anderson	38	Donley	54	Karnes	37	Reagan	54
Andrews	54	Duval	41	Kaufman	35	Real	54
Angelina	38	Eastland	54	Kendall	16	Red River	38
Aransas	40	Ector	7	Kenedy	41	Reeves	18
Archer	35	Edwards	18	Kent	54	Refugio	37
Armstrong	7	El Paso	34	Kerr	37	Roberts	54
Atascosa	16	Ellis	35	Kimble	54	Robertson	16
Austin	56	Erath	38	King	54	Rockwall	35
Bailey	54	Falls	38	Kinney	18	Runnels	54
Bandera	16	Fannin	38	Kleberg	37	Rusk	11
Bastrop	16	Fayette	37	Knox	54	Sabine	38
Baylor	54	Fisher	54	Lamar	38	San Augustine	38
Bee	37	Floyd	54	Lamb	54	San Jacinto	56
Bell	16	Foard	54	Lampasas	16	San Patricio	40
Bexar	16	Fort Bend	56	LaSalle	41	San Saba	54
Blanco	37	Franklin	38	Lavaca	37	Schleicher	54
Borden	54	Freestone	38	Lee	37	Scurry	54
Bosque	38	Frio	37	Leon	38	Shackelford	54
Bowie	11	Gaines	54	Liberty	56	Shelby	38
Brazoria	56	Galveston	56	Limestone	38	Sherman	54
Brazos	16	Garza	54	Lipscomb	54	Smith	11
Brewster	18	Gillespie	37	Live Oak	37	Somervell	38
Briscoe	54	Glasscock	54	Llano	37	Starr	41
Brooks	41	Goliad	40	Loving	54	Stephens	54
Brown	54	Gonzales	37	Lubbock	7	Sterling	54
Burleson	16	Gray	54	Lynn	54	Stonewall	54
Burnet	37	Grayson	35	Madison	38	Sutton	18
Caldwell	16	Gregg	11	Marion	38	Swisher	54
Calhoun	40	Grimes	38	Martin	54	Tarrant	35
Callahan	35	Guadalupe	16	Mason	37	Taylor	7
Cameron	8	Hale	54	Matagorda	37	Terrell	18
Camp	38	Hall	54	Maverick	41	Terry	54
Carson	7	Hamilton	38	McCulloch	54	Throckmorton	54
Cass	38	Hansford	54	McLennan	16	Titus	38
Castro	54	Hardeman	54	McMullen	41	Tom Green	7
Chambers	56	Hardin	56	Medina	16	Travis	16
Cherokee	38	Harris	56	Menard	54	Trinity	38
Childress	54	Harrison	63	Midland	7	Tyler	38
Clay	35	Hartley	54	Milam	38	Upshur	11
Cochran	54	Haskell	54	Mills	54	Upton	54
Coke	54	Hays	16	Mitchell	54	Uvalde	41
Coleman	54	Hemphill	54	Montague	54	Val Verde	18
Collin	35	Henderson	38	Montgomery	56	Van Zandt	38
Collingsworth	54	Hidalgo	8	Moore	54	Victoria	14
Colorado	37	Hill	38	Morris	38	Walker	38
Comal	16	Hockley	54	Motley	54	Waller	56
Comanche	54	Hood	38	Nacogdoches	38	Ward	54

Concho	54	Hopkins	38	Navarro	38	Washington	38
Cooke	54	Houston	38	Newton	38	Webb	8
Coryell	16	Howard	54	Nolan	54	Wharton	37
Cottle	54	Hudspeth	18	Nueces	40	Wheeler	54
Crane	54	Hunt	35	Ochiltree	54	Wichita	12
Crockett	18	Hutchinson	54	Oldham	54	Wilbarger	54
Crosby	7	Irion	7	Orange	56	Willacy	41
Culberson	18	Jack	38	Palo Pinto	38	Williamson	16
Dallam	54	Jackson	37	Panola	38	Wilson	16
Dallas	35	Jasper	38	Parker	35	Winkler	54
Dawson	54	Jeff Davis	18	Parmer	54	Wise	35
Deaf Smith	54	Jefferson	56	Pecos	18	Wood	38
Delta	35	Jim Hogg	41	Polk	38	Yoakum	54
Denton	35	Jim Wells	37	Potter	7	Young	54
DeWitt	37	Johnson	35	Presidio	18	Zapata	41
Dickens	54	Jones	35	Rains	38	Zavala	41
Dimmit	41			Randall	7		

The wage rates listed are those predetermined by the Secretary of Labor and State Statue to be the minimum wages paid. To determine the applicable wage rate zone, a list entitled "TEXAS COUNTIES IDENTIFIED BY WAGE RATE ZONES" is provided in the contract. Any wage rate that is not listed must be submitted to the Engineer for approval. IMPORTANT NOTICE FOR STATE PROJECTS; only the controlling wage rate zone applies to the contract. Effective 1-3-2014

CLASS. #	CLASSIFICATION DESCRIPTION	ZONE TX07 1/3/14	ZONE TX08 1/3/14	ZONE TX11 1/3/14	ZONE TX12 1/3/14	ZONE TX14 1/3/14	ZONE TX16 1/3/14	ZONE TX18 1/3/14	ZONE TX34 1/3/14	ZONE TX35 1/4/13	ZONE TX37 1/3/14	ZONE TX38 1/3/14	ZONE TX40 1/3/14	ZONE TX41 1/3/14	ZONE TX54 1/3/14	ZONE TX56 1/3/14	ZONE TX63 1/3/14
1428	Agricultural Tractor Operator						$12.69					$12.35			$11.75		
1300	Asphalt Distributor Operator	$14.87	$13.48	$13.88			$15.55	$15.72	$13.28	$15.32	$15.62	$14.36	$14.25	$14.03	$13.75	$14.06	$14.40
1303	Asphalt Paving Machine Operator	$13.40	$12.25	$12.35	$13.87		$14.36	$14.20	$13.26	$13.99	$14.68	$12.92	$13.44	$12.53	$14.00	$14.32	$12.99
1106	Asphalt Raker	$12.28	$10.61	$12.02	$14.21		$12.12	$11.64	$11.44	$12.69	$12.05	$11.34	$11.67	$11.40	$12.59	$12.36	
1112	Batching Plant Operator, Asphalt																
1115	Batching Plant Operator, Concrete																
1214	Blaster																
1615	Boom Truck Operator						$18.36										
1444	Boring Machine Operator																
1305	Broom or Sweeper Operator	$11.21	$10.33	$10.08			$11.04	$11.62		$11.74	$11.41	$10.30		$10.23	$10.60	$12.68	$11.05
1144	Communications Cable Installer																
1124	Concrete Finisher, Paving and Structures	$13.55	$12.46	$13.16	$12.85		$12.56	$12.77	$12.44	$14.12	$13.04	$13.38		$12.80	$12.79	$12.98	$13.32
1318	Concrete Pavement Finishing Machine Operator						$15.48			$16.05		$19.31				$13.07	
1315	Concrete Paving, Curing, Float, Texturing Machine Operator											$16.34				$11.71	
1333	Concrete Saw Operator									$14.48	$17.33					$13.99	
1399	Concrete/Gunite Pump Operator																
1344	Crane Operator, Hydraulic 80 tons or less						$18.36			$18.12	$18.04	$20.21			$18.63	$13.86	
1345	Crane Operator, Hydraulic Over 80 Tons																
1342	Crane Operator, Lattice Boom 80 Tons or Less	$16.82	$14.39	$13.85			$15.87			$17.27		$14.67			$16.42	$14.97	
1343	Crane Operator, Lattice Boom Over 80 Tons						$19.38			$20.52		$17.49			$25.13	$15.80	
1306	Crawler Tractor Operator	$13.96	$16.63	$13.62			$15.67			$14.07	$13.15	$13.38			$14.60	$13.68	$13.50
1351	Crusher or Screen Plant Operator																
1446	Directional Drilling Locator						$11.67										
1445	Directional Drilling Operator						$17.24										
1139	Electrician	$20.96		$19.87			$26.35		$20.27	$19.80		$20.92				$27.11	
1347	Excavator Operator, 50,000 pounds or less	$13.46	$12.56	$13.67			$12.88	$14.38	$13.49	$17.19		$13.88			$14.09	$12.71	$14.42
1348	Excavator Operator, Over 50,000 pounds		$15.23	$13.52			$17.71			$16.99	$18.80	$16.22				$14.53	
1150	Flagger	$9.30	$9.10	$8.50		$8.81	$9.45	$8.70		$10.06	$9.71	$9.03		$9.08	$9.90	$10.33	$8.10
1151	Form Builder/Setter, Structures	$13.52	$12.30	$13.38	$12.91	$12.71	$12.87	$12.38	$12.26	$13.84	$12.98	$13.07	$13.61	$12.82	$14.73	$12.23	$12.25
1160	Form Setter, Paving & Curb	$12.36	$12.16	$13.93	$11.83	$10.71	$12.94			$13.16	$12.54	$11.33	$10.69		$13.33	$12.34	
1360	Foundation Drill Operator, Crawler Mounted									$17.99						$17.43	
1363	Foundation Drill Operator, Truck Mounted		$16.86	$22.05			$16.93			$21.07	$20.20	$20.76		$17.54	$21.39	$15.89	
1369	Front End Loader Operator, 3 CY or Less	$12.28	$13.49	$13.40			$13.04	$13.15	$13.29	$13.69	$12.64	$12.89			$13.51	$13.32	$12.17
1372	Front End Loader Operator, Over 3 CY	$12.77	$13.69	$12.33			$13.21	$12.86	$13.57	$14.72	$13.75	$12.32			$13.19	$13.17	
1329	Joint Sealer																
1172	Laborer, Common	$10.30	$9.86	$10.08	$10.51	$10.71	$10.50	$10.24	$10.58	$10.72	$10.45	$10.30	$10.25	$10.03	$10.54	$11.02	$10.15
1175	Laborer, Utility	$11.80	$11.53	$12.70	$12.17	$11.81	$12.27	$12.11	$11.33	$12.32	$11.80	$11.53	$11.23	$11.50	$11.95	$11.73	$12.37
1346	Loader/Backhoe Operator	$14.18	$12.77	$12.97	$15.68		$14.12			$15.18	$13.58	$12.87		$13.21	$14.13	$14.29	

CLASS. #	CLASSIFICATION DESCRIPTION	ZONE TX07 1/3/14	ZONE TX08 1/3/14	ZONE TX11 1/3/14	ZONE TX12 1/3/14	ZONE TX14 1/3/14	ZONE TX16 1/3/14	ZONE TX18 1/3/14	ZONE TX34 1/3/14	ZONE TX35 1/4/13	ZONE TX37 1/3/14	ZONE TX38 1/3/14	ZONE TX40 1/3/14	ZONE TX41 1/3/14	ZONE TX54 1/3/14	ZONE TX56 1/3/14	ZONE TX63 1/3/14
1187	Mechanic	$20.14	$15.47	$17.47			$17.10			$17.68	$18.94	$18.58		$16.61	$18.46	$16.96	
1380	Milling Machine Operator	$15.54	$14.64	$12.22			$14.18			$14.32	$14.35	$12.86			$14.75	$13.53	
1390	Motor Grader Operator, Fine Grade	$17.49	$16.52	$16.88			$18.51	$16.69	$16.13	$17.19	$18.35	$17.07	$17.74	$17.47	$17.08	$15.69	$20.01
1393	Motor Grader Operator, Rough	$16.15	$14.62	$15.83		$17.07	$14.63	$18.50		$16.02	$16.44	$15.12		$14.47	$17.39	$14.23	$15.53
1413	Off Road Hauler			$10.08			$11.88			$12.25		$12.23			$13.00	$14.60	
1196	Painter, Structures						$18.34						$21.29			$18.62	
1396	Pavement Marking Machine Operator	$16.42		$13.10			$19.17	$12.01		$13.63	$14.60	$13.17		$16.65	$10.54	$11.18	
1443	Percussion or Rotary Drill Operator																
1202	Piledriver															$14.95	
1205	Pipelayer		$11.87	$14.64			$12.79		$11.37	$13.24	$12.66	$13.24	$11.17	$11.67		$12.12	
1384	Reclaimer/Pulverizer Operator	$12.85					$12.88			$11.01		$10.46					
1500	Reinforcing Steel Worker	$13.50	$14.07	$17.53			$14.00			$16.18	$12.74	$15.83		$17.10		$15.15	
1402	Roller Operator, Asphalt	$10.95		$11.96			$12.78	$11.61		$13.08	$12.36	$11.68			$11.71	$11.95	$11.50
1405	Roller Operator, Other	$10.36		$10.44			$10.50	$11.64		$11.51	$10.59	$10.30		$12.04	$12.85	$11.57	
1411	Scraper Operator	$10.61	$11.07	$10.85			$12.27		$11.12	$12.96	$11.88	$12.43		$11.22	$13.95	$13.47	
1417	Self-Propelled Hammer Operator																
1194	Servicer	$13.98	$12.34	$14.11			$14.51	$15.56	$13.44	$14.58	$14.31	$13.83		$12.43	$13.72	$13.97	
1513	Sign Erector																
1708	Slurry Seal or Micro-Surfacing Machine Operator																
1341	Small Slipform Machine Operator									$15.96							
1515	Spreader Box Operator	$12.60		$13.12			$14.04			$14.73	$13.84	$13.68		$13.45	$11.83	$13.58	
1705	Structural Steel Welder															$12.85	
1509	Structural Steel Worker						$19.29									$14.39	
1339	Subgrade Trimmer																
1143	Telecommunication Technician																
1145	Traffic Signal/Light Pole Worker						$16.00										
1440	Trenching Machine Operator, Heavy						$18.48										
1437	Trenching Machine Operator, Light																
1609	Truck Driver Lowboy-Float	$14.46	$13.63	$13.41	$15.00	$15.93	$15.66			$16.24	$16.39	$14.30	$16.62	$15.63	$14.28	$16.03	
1612	Truck Driver Transit-Mix									$14.14							
1600	Truck Driver, Single Axle	$12.74	$10.82	$10.75			$11.79	$13.53	$13.16	$12.31	$13.40	$10.30	$11.61		$11.97	$11.46	
1606	Truck Driver, Single or Tandem Axle Dump Truck	$11.33	$14.53	$11.95			$11.68		$14.06	$12.62	$11.45	$12.28		$13.08	$11.68	$11.48	$11.10
1607	Truck Driver, Tandem Axle Tractor with Semi Trailer	$12.49	$12.12	$12.50			$12.81	$13.16		$12.86	$16.22	$12.50			$13.80	$12.27	
1441	Tunneling Machine Operator, Heavy																
1442	Tunneling Machine Operator, Light																
1706	Welder		$14.02				$15.97		$13.74	$14.84					$13.78		
1520	Work Zone Barricade Servicer	$10.30	$12.88	$11.46	$11.70		$11.85	$10.77		$11.68	$12.20	$11.22	$11.51	$12.96	$10.54	$11.67	

Notes:

Any worker employed on this project shall be paid at the rate of one and one half (1-1/2) times the regular rate for every hour worked in excess of forty (40) hours per week.

The titles and descriptions for the classifications listed here are further detailed in the AGC of Texas' *Standard Job Classifications and Descriptions for Highway, Heavy, Utilities, and Industrial Construction in Texas.* AGC will make it available on its Web site for any contractor.

ATTACHMENT 4 TO EXHIBIT 3

SPECIAL PROVISION

000---006

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or any Federal procurement contracting officer. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral Process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and Collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the

company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing
the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. Nondiscrimination programs require that Federal-aid recipients, subrecipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, whether those programs and activities are federally funded or not. The factors prohibited from serving as a basis for action or inaction which discriminates include race, color, national origin, sex, age, and handicap/disability. The efforts to prevent discrimination must address, but not be limited to a program's impacts, access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigations of complaints, allocations of funds, prioritization of projects, and the functions of right-of-way, research, planning, and design.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. In addition to the reporting requirements set forth elsewhere in this contract, the Contractor and the subcontractors holding subcontracts, not including material suppliers, of $10,000 or more, shall submit for every month of July during which work is per-formed, employment data as contained under Form PR 1391 (Appendix C to 23 CFR, Part 230), and in accordance with the instructions included thereon.

ATTACHMENT 5 TO EXHIBIT 3

SPECIAL PROVISION

000---004

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)

1. **General.** In addition to the affirmative action requirements of the Special Provision titled "Standard Federal Equal Employment Opportunity Construction Contract Specifications" as set forth elsewhere in this proposal, the Bidder's attention is directed to the specific requirements for utilization of minorities and females as set forth below.

2. **Goals.**

   a. Goals for minority and female participation are hereby established in accordance with 41 CFR 60-4.

   b. The goals for minority and female participation expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for minority participation in each trade (per-cent)	Goals for female participation in each trade (per-cent)
See Table 1	6.9

   c. These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Standard Federal Equal Employment Opportunity Construction Contract Specifications Special Provision and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4.

Compliance with the goals will be measured against the total work hours performed.

d. A contractor or subcontractor will be considered in compliance with these provisions by participation in the Texas Highway-Heavy Branch, AGC, Statewide Training and Affirmative Action Plan. Provided that each contractor or subcontractor participating in this plan must individually comply with the equal opportunity clause set forth in 41 CFR 60-1.4 and must make a good faith effort to achieve the goals set forth for each participating trade in the plan in which it has employees. The overall good performance of other contractors and subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to make good faith efforts to achieve the goals contained in these provisions. Contractors or subcontractors participating in the plan must be able to demonstrate their participation and document their compliance with the provisions of this Plan.

3. **Subcontracting.** The Contractor shall provide written notification to the Department within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation pending concurrence of the Department in the award. The notification shall list the names, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. **Covered Area.** As used in this special provision, and in the contract resulting from this solicitation, the geographical area covered by these goals for female participation is the State of Texas. The geographical area covered by these goals for other minorities are the counties in the State of Texas as indicated in Table 1.

5. **Reports.** The Contractor is hereby notified that he may be subject to the Office of Federal Contract Compliance Programs (OFCCP) reporting and record keeping requirements as provided for under Executive Order 11246 as amended. OFCCP will provide direct notice to the Contractor as to the specific reporting requirements that he will be expected to fulfill.

Table 1

County	Goals for Minority Participation	County	Goals for Minority Participation
Anderson	22.5	Concho	20.0
Andrews	18.9	Cooke	17.2
Angelina	22.5	Coryell	16.4
Aransas	44.2	Cottle	11.0
Archer	11.0	Crane	18.9
Armstrong	11.0	Crockett	20.0
Atascosa	49.4	Crosby	19.5
Austin	27.4	Culberson	49.0
Bailey	19.5	Dallam	11.0
Bandera	49.4	Dallas	18.2
Bastrop	24.2	Dawson	19.5
Baylor	11.0	Deaf Smith	11.0
Bee	44.2	Delta	17.2
Bell	16.4	Denton	18.2
Bexar	47.8	DeWitt	27.4
Blanco	24.2	Dickens	19.5
Borden	19.5	Dimmit	49.4
Bosque	18.6	Donley	11.0
Bowie	19.7	Duval	44.2
Brazoria	27.3	Eastland	10.9
Brazos	23.7	Ector	15.1
Brewster	49.0	Edwards	49.4
Briscoe	11.0	Ellis	18.2
Brooks	44.2	El Paso	57.8
Brown	10.9	Erath	17.2
Burleson	27.4	Falls	18.6
Burnet	24.2	Fannin	17.2
Caldwell	24.2	Fayette	27.4
Calhoun	27.4	Fisher	10.9
Callahan	11.6	Floyd	19.5
Cameron	71.0	Foard	11.0
Camp	20.2	Fort Bend	27.3
Carson	11.0	Franklin	17.2
Cass	20.2	Freestone	18.6
Castro	11.0	Frio	49.4
Chambers	27.4	Gaines	19.5
Cherokee	22.5	Galveston	28.9
Childress	11.0	Garza	19.5
Clay	12.4	Gillespie	49.4
Cochran	19.5	Glasscock	18.9
Coke	20.0	Goliad	27.4
Coleman	10.9	Gonzales	49.4
Collin	18.2	Gray	11.0
Collingsworth	11.0	Grayson	9.4
Colorado	27.4	Gregg	22.8
Comal	47.8	Grimes	27.4
Comanche	10.9	Guadalupe	47.8

County	Goals for Minority Participation	County	Goals for Minority Participation
Hale	19.5	Lavaca	27.4
Hall	11.0	Lee	24.2
Hamilton	18.6	Leon	27.4
Hansford	11.0	Liberty	27.3
Hardeman	11.0	Limestone	18.6
Hardin	22.6	Lipscomb	11.0
Harris	27.3	Live Oak	44.2
Harrison	22.8	Llano	24.2
Hartley	11.0	Loving	18.9
Haskell	10.9	Lubbock	19.6
Hays	24.1	Lynn	19.5
Hemphill	11.0	Madison	27.4
Henderson	22.5	Marion	22.5
Hidalgo	72.8	Martin	18.9
Hill	18.6	Mason	20.0
Hockley	19.5	Matagorda	27.4
Hood	18.2	Maverick	49.4
Hopkins	17.2	McCulloch	20.0
Houston	22.5	McLennan	20.7
Howard	18.9	McMullen	49.4
Hudspeth	49.0	Medina	49.4
Hunt	17.2	Menard	20.0
Hutchinson	11.0	Midland	19.1
Irion	20.0	Milam	18.6
Jack	17.2	Mills	18.6
Jackson	27.4	Mitchell	10.9
Jasper	22.6	Montague	17.2
Jeff Davis	49.0	Montgomery	27.3
Jefferson	22.6	Moore	11.0
Jim Hogg	49.4	Morris	20.2
Jim Wells	44.2	Motley	19.5
Johnson	18.2	Nacogdoches	22.5
Jones	11.6	Navarro	17.2
Karnes	49.4	Newton	22.6
Kaufman	18.2	Nolan	10.9
Kendall	49.4	Nueces	41.7
Kenedy	44.2	Ochiltree	11.0
Kent	10.9	Oldham	11.0
Kerr	49.4	Orange	22.6
Kimble	20.0	Palo Pinto	17.2
King	19.5	Panola	22.5
Kinney	49.4	Parker	18.2
Kleberg	44.2	Parmer	11.0
Knox	10.9	Pecos	18.9
Lamar	20.2	Polk	27.4
Lamb	19.5	Potter	9.3
Lampasas	18.6	Presidio	49.0
LaSalle	49.4	Rains	17.2

County	Goals for Minority Participation	County	Goals for Minority Participation
Randall	9.3	Webb	87.3
Reagan	20.0	Wharton	27.4
Real	49.4	Wheeler	11.0
Red River	20.2	Wichita	12.4
Reeves	18.9	Wilbarger	11.0
Refugio	44.2	Willacy	72.9
Roberts	11.0	Williamson	24.1
Robertson	27.4	Wilson	49.4
Rockwall	18.2	Winkler	18.9
Runnels	20.0	Wise	18.2
Rusk	22.5	Wood	22.5
Sabine	22.6	Yoakum	19.5
San Augustine	22.5	Young	11.0
San Jacinto	27.4	Zapata	49.4
San Patricio	41.7	Zavala	49.4
San Saba	20.0		
Schleicher	20.0		
Scurry	10.9		
Shackelford	10.9		
Shelby	22.5		
Sherman	11.0		
Smith	23.5		
Somervell	17.2		
Starr	72.9		
Stephens	10.9		
Sterling	20.0		
Stonewall	10.9		
Sutton	20.0		
Swisher	11.0		
Tarrant	18.2		
Taylor	11.6		
Terrell	20.0		
Terry	19.5		
Throckmorton	10.9		
Titus	20.2		
Tom Green	19.2		
Travis	24.1		
Trinity	27.4		
Tyler	22.6		
Upshur	22.5		
Upton	18.9		
Uvalde	49.4		
Val Verde	49.4		
Van Zandt	17.2		
Victoria	27.4		
Walker	27.4		
Waller	27.3		
Ward	18.9		
Washington	27.4		

ATTACHMENT 6 TO EXHIBIT 3

CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

By signing and submitting its proposal or bid, and by executing the Agreement or Subcontract, each prospective Developer and subcontractor (at all tiers) shall be deemed to have signed and delivered the following:

1. The prospective Developer/subcontractor certifies, to the best of its knowledge and belief, that:

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

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

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. Developer/subcontractor shall require that the language of this certification be included in all lower tier Subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

ATTACHMENT 7 TO EXHIBIT 3

COMPLIANCE WITH BUY AMERICA REQUIREMENTS

Developer shall comply with the Federal Highway Administration (FHWA) Buy America Requirement in 23 CFR 635.410, which permits FHWA participation in the Agreement only if domestic steel and iron will be used on the Project. To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed 0.1% of the contract price under the Agreement.

Concurrently with execution of the Agreement, Developer has completed and submitted, or shall complete and submit, to TxDOT a Buy America Certificate, in format below. After submittal, Developer is bound by its original certification.

A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this Agreement be investigated, Developer has the burden of proof to establish that it is in compliance.

At Developer's request, TxDOT may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist. However, Developer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by TxDOT. A request for a waiver shall be treated as a Request for Change Order under Section 13.3 of the Agreement.

BUY AMERICA CERTIFICATE

The undersigned certifies on behalf of itself and all proposed Subcontractors (at all tiers) that only domestic steel and iron will be used in the Project.

A. Developer shall comply with the Federal Highway Administration ("FHWA") Buy America Requirements of 23 CFR 635.410, which permits FHWA participation in the Contract only if domestic steel and iron will be used on the Project. To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States, and all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed 0.1% of the Contract Price.

B. A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this Contract be investigated, Developer has the burden of proof to establish that it is in compliance.

C. At Developer's request, TxDOT may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist. However, Developer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by TxDOT.

DEVELOPER	Abrams-Kiewit, J.V.
by J.D. ABRAMS, L.P., a joint venture member	
SIGNATURE	
NAME (printed or typed)	Jon F. Abrams
TITLE	President
DATE	August 22, 2014
by KIEWIT INFRASTRUCTURE SOUTH Co., a joint venture member	
SIGNATURE	
NAME (printed or typed)	Shane T. Petersen
TITLE	Senior Vice President
DATE	August 22, 2014

ATTACHMENT 8 TO EXHIBIT 3

2004 Specifications

SPECIAL PROVISION

000---009

Certification of Nondiscrimination in Employment

By signing this proposal, the bidder certifies that he has participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, or if he has not participated in a previous contract of this type, or if he has had previous contract or subcontracts and has not filed, he will file with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

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

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

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

ATTACHMENT 9 TO EXHIBIT 3

2004 Specifications

SPECIAL PROVISION

000--1676

1. On-the-Job Training Program Description. The primary objective of this Special Provision is the training and advancement of minorities, women and economically disadvantaged persons toward journeyworker status. Accordingly, make every effort to enroll minority, women and economically disadvantaged persons to the extent that such persons are available within a reasonable area of recruitment. This training commitment is not intended, and shall not be used to discriminate against any applicant for training, whether or not he/she is a member of a minority group.

2. Trainee Assignment. Training assignments are determined based on the past contract volume of federal-aid work performed with the Department. Contractors meeting the selection criteria will be notified of their training assignment at the beginning of the reporting year by the Department's Office of Civil Rights.

3. Program Requirements. Fulfill all of the requirements of the On-the-Job Training Program including the maintenance of records and submittal of periodic reports documenting program performance. Trainees shall be paid at least 60% of the appropriate minimum journeyworker's rate specified in the contract for the first half of the training period, 75% for the third quarter and 90% for the last quarter, respectively. Contractors may be reimbursed $0.80 per training hour at no additional cost to the Department.

Compliance. The Developer will have fulfilled the contractual responsibilities by having provided acceptable training to the number of trainees specified in their goal assignment. Noncompliance may be cause for corrective and appropriate measures pursuant to Article 8.6., "Abandonment of Work or Default of Contract," which may be used to comply with the sanctions for noncompliance pursuant to 23 CFR Part 230.

EXHIBIT 4

TXDOT-PROVIDED APPROVALS

1. Abbreviated State Final Environmental Impact Statement, dated April 25, 2013;

2. Record of Decision issued by TxDOT on June 7, 2013 for the Abbreviated State Final Environmental Impact Statement;

3. Environmental Decision Reevaluation issued by TxDOT on January 30, 2014; and

4. Reevaluation Consultation Checklist for BHW UPRR Track Relocation, Acquisition of Remainders, and Relocations of U.S. Customs and Border Protection Equipment, approved on August 15, 2014.

EXHIBIT 5

MAXIMUM PAYMENT SCHEDULE

Total Maximum Payment Schedule

Developer Draws/Cash Flow Tables (Development Price)

(all figures are in U.S. dollars, nominal)

Months after NTP 1	(A) Anticipated Draw / Cash Flow	(B) Cumulative Draw / Cash Flow	Cash Flow % of Cumulative Draw (A / B)	Cumulative Cash Flow % of Maximum Draw (B / Maximum Payment)
1	$11,000,000	$11,000,000	100.0%	2.5%
2	$7,000,000	$18,000,000	38.9%	4.0%
3	$7,000,000	$25,000,000	28.0%	5.6%
4	$32,000,000	$57,000,000	56.1%	12.7%
5	$19,000,000	$76,000,000	25.0%	17.0%
6	$17,500,000	$93,500,000	18.7%	20.9%
7	$15,600,000	$109,100,000	14.3%	24.4%
8	$17,000,000	$126,100,000	13.5%	28.2%
9	$19,000,000	$145,100,000	13.1%	32.4%
10	$20,000,000	$165,100,000	12.1%	36.9%
11	$21,300,000	$186,400,000	11.4%	41.6%
12	$34,000,000	$220,400,000	15.4%	49.2%
13	$15,250,000	$235,650,000	6.5%	52.7%
14	$13,800,000	$249,450,000	5.5%	55.7%
15	$10,800,000	$260,250,000	4.1%	58.2%

Months after NTP 1	(A) Anticipated Draw / Cash Flow	(B) Cumulative Draw / Cash Flow	Cash Flow % of Cumulative Draw (A / B)	Cumulative Cash Flow % of Maximum Draw (B / Maximum Payment)
16	$13,500,000	$273,750,000	4.9%	61.2%
17	$15,350,000	$289,100,000	5.3%	64.6%
18	$16,000,000	$305,100,000	5.2%	68.2%
19	$13,000,000	$318,100,000	4.1%	71.1%
20	$13,500,000	$331,600,000	4.1%	74.1%
21	$12,750,000	$344,350,000	3.7%	76.9%
22	$11,250,000	$355,600,000	3.2%	79.5%
23	$10,750,000	$366,350,000	2.9%	81.9%
24	$12,000,000	$378,350,000	3.2%	84.5%
25	$13,000,000	$391,350,000	3.3%	87.4%
26	$10,500,000	$401,850,000	2.6%	89.8%
27	$9,250,000	$411,100,000	2.3%	91.9%
28	$9,000,000	$420,100,000	2.1%	93.9%
29	$7,500,000	$427,600,000	1.8%	95.5%
30	$6,500,000	$434,100,000	1.5%	97.0%
31	$5,250,000	$439,350,000	1.2%	98.2%
32	$4,000,000	$443,350,000	0.9%	99.1%
33	$2,200,000	$445,550,000	0.5%	99.6%
34	$950,000	$446,500,000	0.2%	99.8%
35	$750,000	$447,250,000	0.2%	99.9%
36	$294,621	$447,544,621	0.1%	100.0%
TOTALS	$447,544,621			

Nominal Development Payments
Design Build
Price To Form M-1

MAXIMUM PAYMENT $447,544,621

EXHIBIT 6

DBE SPECIAL PROVISIONS
FOR NON-TRADITIONAL CONTRACTS

000---___

Disadvantaged Business Enterprise in Federal-Aid Construction for Non-Traditional Contracts

Description. The purpose of this Special Provision is to carry out the U. S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT assisted contracts and creating a level playing field on which firms owned and controlled by individuals who are determined to be socially and economically disadvantaged can compete fairly for DOT assisted contracts. If the Disadvantaged Business Enterprise (DBE) goal for this Agreement is greater than zero, Article A, "Disadvantaged Business Enterprise in Federal-Aid Construction", of this Special Provision shall apply to this Agreement. If there is no DBE goal, Article B, "Race-Neutral DBE Participation", of this Special Provision shall apply to this Agreement.

Article A. Disadvantaged Business Enterprise in Federal-Aid Construction for Non-Traditional Contracts.

1. Policy. In the performance of this Agreement the Developer shall comply with 49 CFR Part 26, the Department's DBE Program, and 43 Texas Administration Code (TAC), Chapter 9, Sections 9.200 – 9.242, as amended. For a conflict between the language of this Special Provision and 49 CFR Part 26, the Department's DBE Program, or 43 Texas Administration Code, Chapter 9, Sections 9.200 – 9.242, as amended, 49 CFR Part 26, the Department's DBE Program, or 43 TAC, Chapter 9, Sections 9.200 – 9.242 as applicable, shall control.

a. Developer, its Contractor and subcontractors must meet the DBE goal set out in the Agreement by obtaining commitments from eligible DBEs or the Developer must show acceptable evidence of Good Faith Efforts to meet the DBE goal.

b. The Developer shall solicit DBEs through reasonable and available means.

c. The Developer, Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Developer shall carry

out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Developer to carry out these requirements is a material breach of this Agreement, that may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.

d. The Developer will include this Special Provision in all Contracts entered into by the Developer. The Developer will also require any Contractor to include this Special Provision in any Contract that the Contractor enters into under this Agreement.

e. By signing this Agreement the Developer certifies that the DBE goal as stated in the Agreement will be met by obtaining commitments from eligible DBEs or that the Developer will provide acceptable evidence of good faith effort to meet the commitment within the time frame set out below.

2. Definitions. The definition for terms used in this Provision can be found in Exhibit 1 of this Agreement, 49 CFR, Part 26 or 43 TAC §9.202, Definitions. Terms not defined in Exhibit 1 of this Agreement, 49 CFR, Part 26, or 43 TAC §9.202 will for the purpose of this Special Provision be defined by the term's common usage.

3. Developer's Responsibilities. These requirements must be satisfied by the Developer. Failure of the Developer to meet these requirements may result in the issuance of Sanctions by the Department.

a. The Developer shall, in consultation with the Department, develop and submit a DBE Performance Plan describing the methods to be employed for achieving TxDOT's DBE participation goals for the Agreement, including Developer's exercise of good faith efforts. The selected Developer's DBE Performance Plan is subject to TxDOT review, comment and approval prior to execution of the Agreement. Each DBE Performance Plan must at a minimum include the following: specific categories of services and work anticipated for DBE participation on the project; schedule for submission of DBE commitment agreements based on Developer's initial project schedule; good faith efforts performed to date; good faith efforts that will be exercised by the Developer following execution of the Agreement to achieve the DBE participation goal for the project; and the name, qualifications, responsibilities and contact information for the DBE liaison officer. The Developer shall also submit the completed Non-Traditional Contract form for the applicable type of commitment for each DBE that will be used to satisfy the DBE goal, to the extent known at the date of submission

of the DBE Performance Plan. The DBE Performance Plan must be submitted to the Department not later than 5:00 p.m. on the 30th business day, excluding national holidays, after the conditional award of this Agreement. The DBE Performance Plan is subject to review, comment and approval by the Department prior to and as a condition of execution of the Agreement.

b. Should the Developer to whom the Agreement is conditionally awarded refuse, neglect or fail to submit an acceptable DBE Performance Plan, the proposal guaranty filed with the bid shall become the property of the state, not as a penalty, but as liquidated damages to the Department.

c. The Developer shall designate a DBE liaison officer who will administer the Developer's DBE program and who will be responsible for all aspects of the Developer's DBE program including maintaining all records and all reporting and correspondence with the Department on DBE issues.

d. A Developer who cannot meet the Agreement goal, in whole or in part, shall make adequate good faith efforts to obtain DBE participation as so stated and defined in 49 CFR Part 26, Appendix A.

e. The Developer and Contractors shall not terminate a DBE without written consent of the Department. The Developer must comply with 49 CFR §26 and 43 TAC §9.229, DBE Substitution and Termination, prior to terminating or substituting a DBE. This includes written notification to the DBE and the Department and providing the DBE five days in which to respond to the Developer's or Contractor's reasons for the termination. The Department will not consent to the termination or substitution if the Developer or Contractor cannot demonstrate that the provisions of 49 CFR §26.53 and 43 TAC §9.229, DBE Substitutions and Terminations, have been followed. Terminating a DBE without Department approval is a violation of this Special Provision and can lead to Sanctions.

f. If the Department approves the termination of the DBE Contractor, the Developer or Contractor shall make a good faith effort to replace the terminated DBE Contractor with another DBE, to the extent needed to meet the Agreement goal. The Developer shall submit the applicable Non-Traditional Contract commitment form for the substitute DBE firm(s). The Developer may not be allowed to count work on those items being substituted toward the DBE goal prior to approval of the substitution from the Department.

4. Eligibility of DBEs.

a. The Department maintains the Texas Unified Certification Program DBE Directory containing the names of firms that have been certified to be eligible to participate as DBE's on DOT financially assisted contracts. This Directory is available from the Department's OCR Office. An update of the Directory can be found on the Internet at http://www.txdot.gov.

b. Only DBE firms certified at the time the commitments are submitted are eligible to be included in the information furnished by the Developer as required under this Special Provision.

c. For purposes of the DBE goal on this project, DBEs are only allowed to perform work in the categories of work for which they are certified.

d. Only DBE firms certified at the time of execution of a Contract or subcontract are eligible for DBE goal participation.

5. Determination of DBE Participation.

When a DBE participates in a Contract, only the values of the work actually performed by the DBE, as detailed in 49 CFR §26.55, 43 TAC §9.231, Computing Work Performed by a DBE, 43 TAC §9.232, Commercially Useful Function, 43 TAC §9.233, Commercially Useful Function by DBE Trucking Firm, and 43 TAC §9.234, Counting Materials or Supplies Provided by DBE Manufacturer or Regular Dealer, shall be counted by the Developer toward the DBE goal.

6. Records and Reports.

a. The Developer shall submit monthly reports, after work begins, on payments to all Contractors both DBE and non-DBE. These reports will be due within 15 days after the end of each calendar month. These reports will be required until all DBE Contracting or material supply activity is completed.

b. The Developer shall submit a final summary report of DBE payments upon completion of the project. The Developer will not receive final payment until this final report has been received and approved by the Department. If the DBE goal requirement is not met, documentation supporting Good Faith Efforts must be submitted.

c. The Department may verify the amounts being reported as paid to DBEs by requesting copies of cancelled checks paid to DBEs on a random basis. Cancelled checks and invoices should reference the Department's project number.

d. Negative reports are required when no activity has occurred in a monthly period.

e. The Developer shall provide copies of Contracts or agreements and other documentation upon request.

f. The Developer must provide a certification of prompt payment, the Prompt Payment Certification Form 2177, to certify that all Contractors and Suppliers were paid from the previous month's payments and retainage was released for those whose work is complete. A completed Prompt Payment Certification Form 2177 must be submitted each month and the month following the month when final acceptance occurred at the end of the project.

g. A copy of all reports submitted to the department and all supporting documentation must be retained for a period of 3 years following completion of the Contract work, and shall be available at reasonable times and places for inspection by authorized representatives of the Department or the DOT.

7. Compliance of Developer.

a. To ensure that DBE requirements of this DOT assisted contract are complied with, the Department will monitor the Developer's efforts to involve DBEs during the performance of this Agreement. This will be accomplished by a review of monthly reports submitted to the Department by the Developer indicating the Developer's progress in achieving the DBE contract goal, and by compliance reviews conducted on the project site by the Department.

b. The Developer shall receive credit toward the DBE goal based on actual payments to the DBE Contractor. The Developer shall notify the Department if the Developer withholds or reduces payment to any DBE Contractor. The Developer shall submit an affidavit detailing the DBE Contract payments prior to receiving final payment for this Agreement.

c. The Developer's failure to comply with the requirements of this Special Provision shall constitute a material breach of this Agreement. In such a case, the Department reserves the right to

terminate this Agreement or seek sanctions under 43 TAC §9.237, Determination of Noncompliance; Sanctions.

B. Article B. Race-Neutral Disadvantaged Business Enterprise Participation. It is the policy of the DOT that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 Subpart A, be given the opportunity to compete fairly for Contracts and subcontracts financed in whole or in part with Federal funds and that a maximum feasible portion of the Department's overall DBE goal be met using race-neutral means. Consequently, if there is no DBE goal, the DBE requirements of 49 CFR Part 26, apply to this Contract as follows:

1. The Contractor will offer DBEs as defined in 49 CFR Part 26, Subpart A, the opportunity to compete fairly for Contracts and Subcontractors financed in whole or in part with Federal funds. Race-Neutral DBE and non-DBE HUB participation on projects with no DBE goal shall be reported to the Department each month and at project completion. Payments to DBEs reported on Form SMS.4903 are subject to the requirements of Article A.5, "Determination of DBE Participation."

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

EXHIBIT 7

DEVELOPER'S DBE PERFORMANCE PLAN

(Attached.)

ABRAMS-KIEWIT JV'S DBE PERFORMANCE PLAN

DBE PLAN

The following is submitted as an individual Disadvantaged Business Enterprise (DBE) Plan to address the applicable requirements in TxDOT's Disadvantaged Business Enterprise (DBE) Program adopted pursuant to 49 CFR Part 26, the Texas Administrative Code and the Comprehensive Development Agreement for the Loop 375 – Border Highway West Extension Project (CDA):

1. GOALS

A. **Percentage Goals**

The following realistic percentage goals are presented below to reflect the Abrams–Kiewit JV'S good faith effort to employ Disadvantaged Business Enterprises whenever possible in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

i. At least 8.0 percent of the total professional services and construction Work performed under the CDA shall be offered to subcontractors and/or suppliers owned and controlled by socially and economically disadvantaged individuals.

2. PRINCIPAL TYPES OF SUPPLIES AND SERVICES TO BE SUBCONTRACTED

The principal products and/or services the Abrams–Kiewit JV anticipates subcontracting as well as the identification of DBEs for performance of design work, other professional services and construction will be determined as work progresses and submitted to TxDOT on a form similar to TxDOT's Form SMS4901 Disadvantage Business Enterprise (DBE) Program Commitment Form. The following work will be considered for subcontracting DBEs:

- Surveying
- Geotechnical Testing
- Reinforcing steel placement
- Trucking and Hauling
- Lighting and traffic signals
- Landscaping
- Traffic Management & Tolling Systems
- Design services
- Environmental Compliance
- Signing and pavement markings
- Erosion Control
- Fencing and guard rail
- Drilled shafts
- Curb & gutter and flatwork

3. METHOD FOR DEVELOPING GOALS

The work activities to be self-performed by the Abrams–Kiewit JV's workforce will be identified by project management personnel based on best value assessment of each work activity and labor resource. Abrams–Kiewit JV's labor and materials sourcing strategy embodies preferences in offering subcontractor-designated work to qualified DBE's, as feasible.

The goals listed herein reflect internal policy objectives and procedures that require a careful review and evaluation process of the services and/or products to be subcontracted. The

subcontracting data accumulated by Abrams-Kiewit JV through our sourcing/evaluation process for this project will be based on an outreach program targeted at maximizing the utilization of qualified DBE's whenever practicable by using a broad base of resources to identify and source potential DBE's.

4. SOURCES FOR SOLICITATION

The following sources have been identified by Abrams–Kiewit JV as available resources to locate and solicit appropriate disadvantaged business enterprises and will be utilized as needed:

i. Owner provided subcontractor listings

ii. Texas Unified Certification Program (TUCP) directory

iii. Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA)

iv. The Abrams–Kiewit JV's Internal Vendor Database – created from letters of introduction, pre-qualification documents, and personal interviews with small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran enterprise representatives

v. **The Blue Book of Building and Construction,** regional directories of building and construction vendors

vi. Community outreach meetings

vii. Office of Small and Disadvantaged Business Utilization Specialist

viii. National Directories
- *National Directory of Women-Owned Businesses*
- *National Directory of Minority-Owned Business Firms*
- *Smoke Signals*
- *The Business Women's Network Directory*
- *National Center of American Indian-Owned Businesses*

ix. Databases
- *Minority Business Development Agency (MBDA)*
- *GSA's Office of Enterprise Development Vendor Profile Database*
- *Databases Established by Various Government Agencies*

x. Publications
- *Small Business Resource Guide*
- *Federal Acquisition Report*
- *Washington Business Journal's Book of Lists*
- *Minorities in Business Daily*
- *Local Newspaper and Trade Publications*

xi. Trade and Professional Associations
- *National Foundation for Women Business Owners (NFWBO)*

- *National Minority Supplier Development Council, Inc.*
- *National Association of Minority Contractors*
- *National Center for American Indian Enterprise Development*
- *National Business League*
- *Latin American Management Association*
- *The National Black Business Council, Inc.*
- *Hispanic Business Professional Women Association*

All subcontractors considered for Invitations to Bid by Abrams–Kiewit JV, including DBEs are may be asked to complete a Prequalification Form. This form is reviewed internally by Abrams–Kiewit JV to evaluate the following areas:

+ Safety record;
+ Quality of services and/or products;
+ Experience;
+ Insurance/Bonding Capacity;
+ Financial stability;
+ Personnel and Equipment Availability and Capacity;
+ Delivery schedule;
+ Pricing structure;

Additional information, if required, may be obtained from Dun and Bradstreet reports, personal interviews and contact with business references.

i. 5. INVITATION TO BID

Following the identification and prequalification of a potential subcontractor/supplier, an Invitation to Bid is formulated and issued to the subcontractors. A log is maintained to track the subcontractors contacted and their response. Sample subcontract, material contract and/or purchase orders agreements are included with the Invitation as a resource document for the subcontractor's information and pricing consideration. All plans and specifications are made available for review. The CDA and applicable addenda may also be transmitted to the subcontractor.

6. SELECTION PROCESS AND AWARD

The responsive subcontractor quotes are evaluated based on prequalification information, , qualifications of bid, inclusions/exclusions, , price etc. After careful consideration the team makes a selection of the successful subcontractors for each work scope subcontracted. If a DBE is not selected the reasons for this decision are documented. Appropriate agreements are drafted and forwarded to the subcontractor for execution.

7. PLAN ADMINISTRATION

The following individual will administer the subcontracting Program:

NAME	:	Sandy Lindberg, DBE *Liaison*
ADDRESS	:	111 Congress Ave. Suite 2400
PHONE	:	(512) 322-4004
email	:	SLindberg@jdabrams.com

The specific duties, as they relate to this subcontracting plan, include oversight of the subcontracting program, and the development, assist in the preparation and execution of individual subcontracting plans, documentation and the monitoring of performance relative to the contractual subcontracting requirements contained in this plan including, but not limited to:

- Preparing and submitting periodic governmental required subcontracting reports including a monthly DBE Plan assessment report.
- Coordinating activities during compliance reviews by Federal agencies.
- Coordinating activities involving small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran enterprises, as related to the subcontracting program.
- Monitoring attainment of proposed goals.

8. OUTREACH EFFORTS

A. Efforts will be taken to assure that small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business concerns will have an equitable opportunity to compete, along with large businesses, for subcontract work. Outreach efforts will be made through:

i. Contacts with minority and small business trade associations.

ii. Contacts with business development organizations.

iii. Contacts with the TxDOT Business Opportunities Program (BOP) Office.

iv. Attendance at SBA procurement conferences and trade fairs.

v. Mentor-Protégé relationships.

B. Internal efforts will be made to guide and encourage purchasing agents, buyers, etc., to utilize small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran enterprises, as follows:

i. By notifying appropriate internal purchasing agents and buyers of small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business sources.

ii. By monitoring efforts to achieve the goals of the subcontracting plan.

9. PLANS FOR SUBCONTRACTORS FOR ABRAMS – KIEWIT JV

A. Abrams–Kiewit JV shall include in all subcontracts subject to this plan the following language incorporated by reference in accordance with all applicable FAR regulations:

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

ii. Abrams – Kiewit JV shall pay each Subcontractor for Work performed within ten days after receiving payment from TxDOT for the Work performed by the Subcontractor, and shall pay any retainage on a Subcontractor's Work within ten days after satisfactory completion of all of the Subcontractor's Work. Completed Subcontractor Work includes vegetative establishment, test, maintenance, performance, and other similar periods that are the responsibility of the Subcontractor.

iii. Satisfactory completion shall have been accomplished when:(a) the Subcontractor has fulfilled the Subcontract requirements and the requirements under the GOA Documents for the subcontracted Work, including the submission of all submittals required by the Subcontract and GOA Documents; and (b) the Work done by the Subcontractor has been inspected and approved by Abrams–Kiewit JV and the final quantities of the Subcontractor's Work have been determined and agreed upon.

iv. Subcontractor hereby specifically agrees to be bound and to comply with the subcontracting requirements of the terms and conditions of the GOA including but not limited to, the requirement that Subcontractor, except small business concerns, adopt and comply with a plan similar to this plan and submit such plan for review and acceptance by Abrams–Kiewit JV.

B. Abrams-Kiewit will submit DBE commitment agreements for Design functions prior to NTP1 and for construction work prior to NTP2. Good faith efforts to date include the Design and project Administration firms identified in the Abrams-Kiewit Technical Proposal and a mass fax sent out to contractors and material suppliers soliciting price quotes and interest during the procurement phase and submitted as an attachment to the Abrams-Kiewit Technical proposal as an attachment to form H, DBE Certification.

C. Abrams –Kiewit will not have Non-Traditional Contracts.

10. COMPLIANCE WITH REPORTING REQUIREMENTS

A. Abrams–Kiewit JV agrees to submit monthly reports and to cooperate in any studies or surveys, as may be required by the Contracting Agency, in order to determine the extent of the compliance by the Owner to achieve the goal of the DBE plan. These reports will be due within 15 days after the end of a calendar month and will be submitted until all DBE subcontracting or material supply activity is completed.

B. Abrams–Kiewit JV agrees to submit all applicable Standard Forms modified to fit the CDA. SMS 4901, SMS 4901-M/S, SMS 4901-T, SMS 4903 and SMS 4904 located on the TxDOT website at www.txdot.state.tx.us/forms/bop

C. To ensure that DBE requirements are complied with, TxDOT will monitor Abrams–Kiewit JV's efforts by reviewing monthly reports submitted to TxDOT by Abrams–Kiewit JV indicating progress in achieving the DBE contract goal and by compliance reviews conducted on the project site by TxDOT.

11. RECORDS

A. Abrams–Kiewit JV agrees to maintain the following types of records to document compliance with the DBE plan:

i. Small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business concern source lists, guides, and the other data identifying these suppliers, subcontractor, etc.

ii. Organizations contacted for providing small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business sources.

iii. Records on each subcontract solicitation resulting in an award showing whether or not small and small disadvantaged business concerns were contacted, and if not, why not; whether or not small, small disadvantaged, women-owned, HUB Zone, and service disabled veteran business concerns were contacted, and if not, why not; and, if applicable the reason the award was not made to a small or small disadvantaged business concern.

iv. Records of any outreach efforts to contact trade associations, business development, business development organizations, and conferences and trade fairs, to locate DBEs.

v. Records of internal guidance and encouragement provided to buyers through workshops, seminars, training, etc., and performance monitoring to evaluate compliance with program requirements.

vi. Records on a contract-by-contract basis to support award data submitted by the offeror to the government including name, address, and business size of each subcontractor.

12. TRAINING

Abrams–Kiewit JV will ensure that all applicable training requirements will be accomplished with each subcontractor through orientation and/or acknowledgement of safety requirements included in all subcontract agreements.

13. EEO

All Federal employment requirements to include EEO, affirmative action, labor, and all other applicable requirements will be posted at project site and reference to these requirements attached to all subcontract agreements.

14. IMPLEMENTATION

In order to effectively implement this plan to the extent consistent with efficient contract performance, Abrams–Kiewit JV shall perform the following functions:

A. Assist disadvantaged businesses by allowing time for the preparation of bids, quantities, specifications and delivery schedules. Where the lists of potential DBE subcontractors are excessively long, reasonable effort shall be made to give all such business concerns an opportunity to compete over a period of time.

B. Counsel and discuss subcontracting opportunities with representatives of DBE's.

C. Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as DBE's for the purpose of obtaining a subcontract that is to be included as part of all of a goal contained in the Abrams-Kiewit JV's subcontracting plan.

EXHIBIT 8

DEVELOPER'S JOB TRAINING PLAN / SMALL BUSINESS OPPORTUNITY PLAN

(Attached.)

Abrams-Kiewit Joint Venture On-the-Job Training Program

Policy Statement

Abrams-Kiewit Joint Venture (A-KJV) will institute an on-the-job training program on the Loop 375 Border Highway West (Loop 375-BHW) Extension Project, in accordance with the regulations of the U.S. Department of Transportation at 23 CFR Part 230, Subpart A, Equal Employment Opportunity on Federal and Federal-aid Construction Contracts, and TxDOT Special Provisions *On-the-Job Training Program for Design - Build and Comprehensive Development Agreement Projects 11-13* (attached), and 000-1676 (attached as Attachment 9 to Exhibit 3 to the Agreement) of the 2004 Specifications. Abrams-Kiewit will utilize the *Associated General Contractors of Texas On-the-Job Training Program (Revised March 2014)* as a guiding resource for developing and implementing the Abrams-Kiewit On-the-Job training program. The program is designed to increase participation of minority groups, disadvantaged persons and women in all phases of the highway construction industry.

Nondiscrimination

It is the policy of Abrams-Kiewit JV to ensure that all applicants are considered and that employees are treated fairly during their employment, without regard to race, color, religion, age, physical or mental disability, gender, marital status, ancestry, national origin, veteran's status, citizenship, pregnancy, gender orientation, other protected activities, or any other characteristic protected by federal, state, or local law. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; wages or other forms of compensation; selection for training, including apprenticeship, pre-apprenticeship, and/or on the job training; and ensuring and maintaining a work environment free of harassment, intimidation, and coercion at all sites and in all facilities at which employees are assigned to work.

Abrams-Kiewit JV Annual Goal Commitment

Abrams-Kiewit JV will train at a minimum, the number of trainees required by TxDOT's Annual Estimate of Trainees Based upon Contract Amount, using the estimated amount of actual field work (not including design or close out work), for the current year on the Loop 375-BHW Project. Abrams-Kiewit JV will submit the planned number of trainees to TxDOT for review and approval prior to January 31st of each year by submitting the ***Contractor On-the-Job Training Plan***. Training will begin in 2015.

Dissemination of On-the-Job Training (OJT) Program

Abrams-Kiewit JV will advise employees and applicants for employment of available training programs and prerequisites for each program. Upon entering the program,

each trainee will receive a copy of their completed ***Form AGC of Texas Federal On-the-Job Training Program Enrollment Form.***

Good Faith Efforts

Abrams-Kiewit JV will begin their annual training efforts within 60 days of receiving approval on their annual training goal. In the event Abrams-Kiewit JV does not have any individuals enrolled and undergoing training by that time, Abrams-Kiewit JV will provide to TxDOT the Contractor Training Plan (Attached).

Reporting Requirements

Abrams-Kiewit JV will notify TxDOT within seven (7) days of intent to assign trainee to the project using the ***AGC of Texas Federal On-the-Job Training Program Enrollment Form****.*

Abrams-Kiewit JV will electronically submit the ***AGC of Texas Federal On-the-Job Training Program Enrollment Monthly Reporting Form***, by 3rd working day of each month, to the appropriate TxDOT office, to document training activity, hours trained, termination, or graduation during the training period indicated.

Abrams-Kiewit JV will notify TxDOT within seven (7) days of intent to graduate a trainee from the On-the-Job Training program, provided the trainee has demonstrated to Abrams-Kiewit JV his/her ability to perform at a journeyman level. Abrams-Kiewit JV reserves the right to graduate a qualified trainee at any time should they be deemed qualified.

When a trainee is terminated for any reason, Abrams-Kiewit JV will make a good faith effort to replace the trainee within 30 days of the termination. The replacement trainee need not be in the same classification code as the terminated trainee.

Abrams-Kiewit JV will utilize ***AGC of Texas Federal On-the-Job Training Program Enrollment Form*** to notify TxDOT of the replacement trainee's enrollment.

When a trainee is transferred, Abrams-Kiewit JV will notify TxDOT's Area Engineer for the previous project and the Area Engineer for the project to which the trainee is being transferred, using ***AGC of Texas Federal On-the-Job Training Program Enrollment Monthly Reporting Form.***

Abrams-Kiewit JV will retain original training records for a period not less than three years.

Trainee Requirements

No employee will be enrolled in the On-the-Job Training program in any classification in which he/she has previously completed a training course leading to journeyman status, or in which he/she has been employed as a journeyman.

Trainee Wage Rates

Trainees will be paid at a minimum the established percentages of the project specific journeyman starting wage rates as set forth by Abrams-Kiewit JV (AKJSW). Under no circumstance will the trainee receive less than the minimum wage. Trainees' compensation will be not less than 60% of AKJSW specified in the contract for the first half of the training period, 75% for the third quarter of the training period and 90% for the last quarter of the training period.

Small Business Mentoring/Training Program

Abrams-Kiewit Joint Venture (A-KJV) has created a Mentoring Plan to provide training and assistance to DBE, HUB and other small businesses to participate in the areas of goods and services; design and construction. As part of this plan, a Mentor Program will be established. Eligible firms will receive assistance from Abrams-Kiewit JV DBE Coordinator and other Abrams-Kiewit JV personnel to help them in bidding and performing work on the Loop 375-BHW Project.

Definition of Terms

Disadvantaged Business Enterprises (DBEs) - Any business so certified in Accordance with 49 CFR Part 26.

Historically Underutilized Businesses (HUBs) - Any business so certified by the Texas Buildings and Procurement Commission (TB&PC) (formerly the General Services Commission).

Small Business Enterprises (SBEs) - Any business certified as DBE and/or HUB or otherwise so certified by TxDOT.

Abrams-Kiewit JV Mentor (Mentor) - Employees from Abram –Kiewit Joint Venture.

Abrams-Kiewit Joint Venture (A-K JV) Protégé (Mentor Protégé) - DBEs/ HUBs/ SBEs that sign an agreement with A-K JV to participate in the A-K JV- Small Business Mentor Protégé Program..

Session - series of meetings for the A-K JV-Small Business Mentor Protégés.

Program Goals

The program goal is to empower Disadvantaged Business firms by providing them the training and assistance that will help them succeed and in turn contribute to the success of the Loop 375-BHW Project. Types of assistance include:

- Guidance in the interpretation of plans, specifications, bid documents, estimating and pricing.
- Assistance in establishing business relationships with material suppliers, equipment rental and other vendors.
- Assistance in obtaining bonding, insurance and meeting other business needs.
- Familiarizing and assisting with safety regulations and other applicable laws, rules and regulations.
- Familiarization and guidance with environmental issues specific to the project.
- Guidance in billing and invoice preparation and general money management.

Program Components

A. Educational Workshops

As part of the Mentoring Plan, Abrams-Kiewit JV will conduct a series of educational workshops for subcontractors who are interested in additional training. Topics for these workshops include contracts, contract negotiation, bonding, design-build method, construction law, Safety and OSHA requirements, taxes and payroll requirements and bonding and insurance requirements. The primary audience for these workshops will be small emerging businesses and established firms needing assistance to improve and grow their operations and local businesses desiring involvement in the Loop 375-BHW Project.

Workshops will generally be scheduled quarterly, however, if necessary additional workshops will be scheduled when a need is identified, particularly at the beginning of the project. Bonding and Insurance requirements are one of those needs that will be addressed very early in the procurement process. Workshops addressing these requirements will allow potential subcontractors an opportunity to make the appropriate arrangements needed to be able to bid on the work.

B. Mentor Program

Abrams –Kiewit Joint Venture's (A-K JV) Small Business Mentor Protégé Program provides an opportunity to selected Small Businesses to learn about A-K JV's business opportunities and its business practices. Small businesses will receive information to assist them in bidding and performing on A-K JV's contracts by working directly with A-K JV and appropriate subcontractors gaining valuable on-the-job training during a one (1) year mentoring period.

Eligibility Criteria

A. Educational Workshops

To be eligible for the program, the small business must be certified by the State of Texas as a DBE, HUB, or SBE and must perform a category of work or supply a type of material that adds value to the project (e.g., design services, rebar placement, pavement markings, etc.).

B. Mentor Program

To be eligible for the program, the small business must have been certified by the State of Texas as a DBE, HUB, or SBE for at least one consecutive year and must perform a category of work or supply a type of material that adds value to the project (e.g., design services, concrete supplier, and rebar tier). Firms interested in the program must submit a Small Business Mentor Protégé application to Abrams-Kiewit JV. A-K JV will

offer participation in the program to each DBE, HUB, or SBE that has an active role in the project, and will endeavor to maintain, on average, five (5) active participants during the design and construction phase of the project. A total of two (2) active participants will be mentored during the COMA period. The actual number of Protégés participating in the program will depend on the total number of candidate firms working on the project that express interest in the program.

Once selected by A-KJV, the Mentor Protégé must commit the necessary time and efforts needed for the successful training. This is a voluntary program and either party may withdraw at any time by providing notice outlining the reason for withdrawal from the program (a courtesy copy will be provided to TxDOT). Upon completion of the one year (1) program, A-K JV will provide each Mentor Protégé with a Certificate of Completion.

Program Approach and Topics

Abrams-Kiewit JV Small Business Mentor Protégé program aims to provide effective mentoring to DBEs/HUBs/SBEs that have already been selected as subcontractors for the project. Abrams-Kiewit JV will make best efforts to mentor the Protégé while the Protégé are working on the project, attending project meetings, and participating in project discussions, allowing Protégé to gain an understanding of the conduct of the project operations and receive one-on-one training opportunities. The intent of this approach is to provide actual project experience.

Each Mentor Protégé will be invited to participate in project meetings through which the Mentor Protégé will gain practical experience related to project operations. Meeting topics may include planning strategies, schedule reviews, budgeting and cost tracking, subcontractor interface coordination, insurance, bonding, safety (including safety task assessments), celebratory events, and quality reviews. The various meetings are held either at the project office or at the particular field site, as applicable.

A-K JV will introduce the Trainees to key A-K JV staff and to TxDOT's project staff and provide networking opportunities with individuals. A-K JV mentors, in collaboration with A-K JV's staff, subcontractors, bonding agents, and other applicable parties, will meet with the Trainee during regularly scheduled meetings and will work individually with the Trainees as needed to achieve program goals. A-K JV will publish bulletins that identify the firms participating in the Mentor/Training program in order to improve awareness of the program and to achieve program goals.

This approach will provide the Mentor Protégé with practical, hands-on project operations experience, which has been shown to provide the most successful method of training - actual, real-time experience.

The Small Business Mentor /Training Program will offer participants the opportunity to enhance their business skills by focusing on fundamental construction business tenets:

1. **Schedule and scheduling**
   a) Short-term and long-term scheduling.
   b) How to schedule.
   c) Progressing a schedule.
   d) Keeping on schedule.
   e) Identifying and applying appropriate resources.
   f) Schedule recovery.

2. **Creating a cost budget and measuring costs**
   13. Establishing a budget with appropriate cost codes.
   14. Monitoring the budget by conducting weekly review of cost reports.
   15. Anticipating necessary changes to the budget.
   16. Adjusting the budget.
   17. Identifying changed conditions.

3. **Measuring Cash flow and profitability**

- Cash in vs. Cash out.
- Relationship of cash flow to profitability.

4. **Understanding the role of bonds and insurance**

5. **Clarifications to the contract documents, when requested by the Trainee**

6. **Human resources**

7. **Project Safety**

Participant Responsibilities and Reporting

A. Mentor Protégé:

The Mentor Protégé is responsible for complying with the following guidelines:

- Attend and be on-time for all meetings related to the program.
- Perform assignments given by the Mentor.
- Hold Abrams-Kiewit JV, including its employees, or agents harmless from any claim, suit, suit action, or demand of Mentor Protégé or Mentor Protégés creditors, or any other person arising out of the Mentor Protégé Agreement.

B. Mentor:

Abrams-Kiewit JV mentor is assigned to each Mentor Protégé and will perform the mentoring activities described in this Program plan. The Mentor is responsible to ensure the Mentor Protégé receives and understands the information presented during the meetings. The Mentor will have regular contact with each Mentor Protégé to respond to any questions that the Mentor Protégé may have regarding the Program.

The Mentor will complete a quarterly report for each Protégé that outlines topics covered, progress towards completion, and recommended future training. The Mentor will submit each quarterly report to Abrams-Kiewit JV's DBE Liaison Manager and TxDOT by the 10th working day of the following quarter.

Evaluating Effectiveness

The criteria used to evaluate the effectiveness of the program will include the following Loop 375-BHW project goals:

- Additional DBE participation is achieved.
- The ability of mentored subcontractors to bid, win and perform work.
- The ability of mentored subcontractors to complete work on time and under budget is improved.
- Mentored subcontractors achieve safety.
- The ability of mentored subcontractors to increase their experience and improve their capabilities enabling them to compete for work outside of the Loop 375 project.

EXHIBIT 9

9-A Form of Performance Bond
9-B Form of Dual Obligee Rider for Performance Bond

EXHIBIT 9-A

FORM OF PERFORMANCE BOND

[To be replaced with actual Performance Bond]

Loop 375 – Border Highway West Extension Project

Bond No. _____

WHEREAS, the Texas Department of Transportation ("Obligee"), has awarded to [_____] ("Principal"), a Development Agreement for the Loop 375 – Border Highway West Extension Project, duly executed and delivered as of [_____], 2014 (the "Contract"), on the terms and conditions set forth therein; and

WHEREAS, upon award of the Contract, Principal is required to furnish a bond (this "Bond") guaranteeing the faithful performance of its obligations under the Contract Documents.

NOW, THEREFORE, Principal and _____, a _____ ("Surety"), an admitted surety insurer in the State of Texas, are held and firmly bound unto Obligee in the initial amount of $25,000,000, subject to increase in accordance with the NTP2 Rider attached hereto (the "Bonded Sum"), for payment of which sum Principal and Surety jointly and severally firmly bind themselves and their successors and assigns.

THE CONDITION OF THIS BOND IS SUCH THAT, if Principal shall promptly and faithfully perform all of its obligations under the Contract Documents, including any and all amendments and supplements thereto, then the obligations under this Bond shall be null and void; otherwise this Bond shall remain in full force and effect. Obligee shall release this Bond upon the occurrence of all of the conditions to release set forth in Section 8.1.3 of the Contract.

The following terms and conditions shall apply with respect to this Bond:

1. The Contract Documents are incorporated by reference herein. Capitalized terms not separately defined herein have the meanings assigned such terms in the Contract.

2. This Bond specifically guarantees the performance of each and every obligation of Principal under the Contract Documents, as they may be amended and supplemented, including but not limited to, its liability for Liquidated Damages as specified in the Contract Documents, but not to exceed the Bonded Sum.

3. The guarantees contained herein shall survive Final Acceptance of the Work called for in the Contract Documents with respect to those obligations of Principal which survive such Final Acceptance.

4. Whenever Principal shall be, and is declared by Obligee to be, in default under the Contract Documents, provided that Obligee is not then in material default thereunder, Surety shall promptly:

a. arrange for the Principal to perform and complete the Contract; or

b. complete the Project in accordance with the terms and conditions of the Contract Documents then in effect, through its agents or through independent contractors; or

c. obtain bids or negotiated proposals from qualified contractors acceptable to the Obligee for a contract for performance and completion of the Work, through a procurement process approved by the Obligee, arrange for a contract to be prepared for execution by the Obligee and the contractor selected with the Obligee's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the Obligee the amount of damages as described in Paragraph 6 of this Bond in excess of the unpaid balance of the Price incurred by the Obligee resulting from the Principal's default; or

d. waive their right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances, (i) after investigation, determine the amount for which they may be liable to the Obligee and, as soon as practicable after the amount is determined, tender payment therefore to the Obligee, or (ii) deny liability in whole or in part and notify the Obligee citing reasons therefore.

5. If Surety does not proceed as provided in Paragraph 4 of this Bond with reasonable promptness, Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Obligee to Surety demanding that Surety perform its obligations under this Bond, and the Obligee shall be entitled to enforce any remedy available to the Obligee. If Surety proceeds as provided in Subparagraph 4.d of this Bond, and the Obligee refuses the payment tendered or Sureties has denied liability, in whole or in part, without further notice, the Obligee shall be entitled to enforce any remedy available to the Obligee.

6. After the Obligee has terminated the Principal's right to complete the Contract, and if Surety elects to act under Subparagraph 4.a, 4.b, or 4.c above, then the responsibilities of Surety to the Obligee shall not be greater than those of the Principal under the Contract, and the responsibilities of the Obligee to Surety shall not be greater than those of the Obligee under the Contract. To the limit of the Bonded Sum, but subject to commitment of the unpaid balance of the Price to mitigation costs and damages on the Contract, Surety is obligated without duplication for:

a. the responsibilities of the Principal for correction of defective work and completion of the Work;

b. actual damages, including additional legal, design, engineering, professional and delay costs resulting from Principal's default, and resulting from the actions or failure to act of Surety under Paragraph 4 of this Bond; and

c. Liquidated Damages under the Contract.

7. No alteration, modification or supplement to the Contract Documents or the nature of the work to be performed thereunder, including without limitation any extension of time for performance, shall in any way affect the obligations of Surety under this Bond provided that the aggregate dollar amount of TxDOT-Directed Changes, without the Surety's prior written consent thereto having been obtained, does not increase the Price by more than $37,117,200. Surety waives notice of any alteration, modification, supplement or extension of time other than Change Orders for TxDOT-Directed Changes in excess of such amount.

8. Correspondence or claims relating to this Bond should be sent to Surety at the following address:

_____
_____
_____

9. No right of action shall accrue on this Bond to or for the use of any entity other than Obligee or its successors and assigns.

IN WITNESS WHEREOF, Principal and Surety have caused this Bond to be executed and delivered as of _____, 20___.

Principal: _____
By: _____
Its: _____
(Seal)

Surety: _____
By: _____
Its: _____
(Seal)

[*ADD APPROPRIATE SURETY ACKNOWLEDGMENTS*]

SURETY

_____
or secretary attest

By:_____
Name
Title:
Address:

NTP2 RIDER

To be attached to and form a part of

Bond No.

Type of Bond: **Performance Bond**

dated effective

(MONTH-DAY-YEAR)

[Developer]

, as Principal,

(PRINCIPAL)

and by , as Surety,

in favor of **Texas Department of Transportation**

(OBLIGEE)

in consideration of the mutual agreements herein contained the Principal and the Surety hereby consent to the following:

The Bonded Sum hereunder shall increase to the amount of $371,172,000 (ONE HUNDRED PERCENT (100%) of the Price allocable to Construction Work (equal to the sum of the amounts set forth in rows 9-21 and 25 of ITP Form M-1.1)) effective upon issuance by the Obligee of NTP2 under the Contract.

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as herein expressly stated.

This rider is effective

(MONTH-DAY-YEAR)

Signed and Sealed

(MONTH-DAY-YEAR)

(PRINCIPAL)

By: _____

(PRINCIPAL)

_____

(SURETY)

By: _____

Attorney in fact

EXHIBIT 9-B

FORM OF DUAL OBLIGEE RIDER

(Performance Bond)

DUAL OBLIGEE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Performance Bond No. _____.

WHEREAS, the Texas Department of Transportation ("TxDOT" or "Primary Obligee") has awarded to _____, a _____ ("Principal"), a Development Agreement for the Loop 375 Border Highway West Extension Project, duly executed and delivered as of _____, 20__, (hereinafter called the "Contract"), on the terms and conditions set forth therein; and

WHEREAS, upon award of the Contract, Principal is required to furnish a performance bond naming the Camino Real Regional Mobility Authority ("CRRMA") as an additional obligee; and

WHEREAS, Principal and _____ (the "Surety") have agreed to execute and deliver this Rider concurrently with the execution of Performance Bond No._____ (hereinafter referred to as "Performance Bond") upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

CRRMA is hereby added to the Performance Bond as named obligee (hereinafter referred to as "Additional Obligee").

The Surety shall not be liable under the Bond to the Primary Obligee, the Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) substantially in accordance with the terms of said Contract as to payments; and the Surety shall not be liable under the Performance Bond to the Primary Obligee, Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by the Primary Obligee, the Additional Obligee, or either of them, shall have occurred, been declared by the Principal, and be continuing under the Contract.

The aggregate liability of the Surety under this Performance Bond, to any or all of the obligees, as their interests may appear, is limited to the penal sum of the Performance Bond. The Additional Obligee's rights hereunder are subject to the same defenses Principal and/or Surety have against the Primary Obligee, provided that the

Additional Obligee has received notice and 30 days' prior opportunity to cure breach or default by the Primary Obligee under the Contract.

The Surety may, at its option, make any payments under the Performance Bond by check issued jointly to all of the obligees.

In the event of a conflict between the Performance Bond and this Rider, this Rider shall govern and control. All references to the Performance Bond, either in the Performance Bond or in this Rider, shall include and refer to the Performance Bond as supplemented and amended by this Rider. Except as herein modified, the Performance Bond shall be and remains in full force and effect.

Additional Obligee's prior written consent is required with respect to any proposed amendment to the Performance Bond, and no amendment shall be effective as to Additional Obligee without such consent. Additional Obligee hereby approves the amendment contemplated by the NTP2 Rider delivered concurrently with the execution of the Performance Bond.

Signed, sealed and dated this _____ day of _____, 20__.

_____

(Principal)
(Seal)

By: _____

(Title)

_____

(Surety)
(Seal)

By: _____

, Attorney-in-Fact

EXHIBIT 10

10-A Form of Payment Bond
10-B Form of Dual Obligee Rider for Payment Bond

EXHIBIT 10-A

FORM OF PAYMENT BOND

[To be replaced by actual Payment Bond]

Loop 375 – Border Highway West Extension Project

Bond No. _____

WHEREAS, the Texas Department of Transportation ("Obligee"), has awarded to [_____] ("Principal"), a Development Agreement for the Loop 375 – Border Highway West Extension Project, duly executed and delivered as of [_____], 2014 (the "Contract"), on the terms and conditions set forth therein; and

WHEREAS, upon award of the Contract, Principal is required to furnish a bond (this "Bond") guaranteeing payment of claims by Subcontractors and Suppliers.

NOW, THEREFORE, Principal and _____, a _____ ("Surety"), an admitted surety insurer in the State of Texas, are held and firmly bound unto Obligee in the initial amount of $25,000,000, subject to increase in accordance with the NTP2 Rider attached hereto (the "Bonded Sum"), for payment of which sum Principal and Surety jointly and severally firmly bind themselves and their successors and assigns.

THE CONDITION OF THIS BOND IS SUCH THAT, if Principal shall fail to pay any valid claims by Subcontractors and Suppliers with respect to the Work, then Surety shall pay for the same in an amount not to exceed the Bonded Sum; otherwise this Bond shall be null and void upon the occurrence of all of the conditions to release set forth in Section 8.1.4 of the Contract.

The following terms and conditions shall apply with respect to this Bond:

1. The Contract Documents are incorporated by reference herein. Capitalized terms not separately defined herein have the meanings assigned such terms in the Contract.

2. No alteration, modification or supplement to the Contract Documents or the nature of the work to be performed thereunder, including without limitation any extension of time for performance, shall in any way affect the obligations of Surety under this Bond, provided that the aggregate dollar amount of TxDOT-Directed Changes without the Surety's prior written consent thereto having been obtained, does not increase the Price by more than $37,117,200. Surety waives notice of any alteration, modification, supplement or extension of time other than Change Orders for TxDOT-Directed Changes in excess of such amount.

3. Correspondence or claims relating to this Bond should be sent to Surety at the following address:

_____
_____
_____

4. This Bond shall inure to the benefit of Subcontractors and Suppliers with respect to the Work so as to give a right of action to such persons and their assigns in any suit brought upon this Bond.

IN WITNESS WHEREOF, Principal and Surety have caused this Bond to be executed and delivered as of _____, 20___.

Principal: _____
By: _____
Its: _____
(Seal)

Surety: _____
By: _____
Its: _____
(Seal)

[*ADD APPROPRIATE SURETY ACKNOWLEDGMENTS*]

SURETY

_____
or secretary attest

By:_____
Name
Title:
Address:

NTP2 RIDER

To be attached to and form a part of

Bond No.

Type of Bond: **Payment Bond**

dated effective

(MONTH-DAY-YEAR)

[Developer]

, as Principal,

(PRINCIPAL)

and by , as Surety,

in favor of **Texas Department of Transportation**

(OBLIGEE)

in consideration of the mutual agreements herein contained the Principal and the Surety hereby consent to the following:

The Bonded Sum hereunder shall increase to the amount of $371,172,000 (ONE HUNDRED PERCENT (100%) of Price allocable to Construction Work (equal to the sum of the amounts set forth in rows 9-21 and 25 of ITP Form M-1.1)) effective upon issuance by the Obligee of NTP2 under the Contract.

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as herein expressly stated.

This rider is effective

(MONTH-DAY-YEAR)

Signed and Sealed

(MONTH-DAY-YEAR)

(PRINCIPAL)

By: _____

(PRINCIPAL)

_____

(SURETY)

By: _____

Attorney in fact

EXHIBIT 10-B

FORM OF DUAL OBLIGEE RIDER

(Payment Bond)

DUAL OBLIGEE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Payment Bond No. _____.

WHEREAS, the Texas Department of Transportation ("TxDOT" or "Primary Obligee") has awarded to _____, a _____ ("Principal"), a Development Agreement for the Loop 375 Border Highway West Extension Project, duly executed and delivered as of _____, 20__, (hereinafter called the "Contract"), on the terms and conditions set forth therein; and

WHEREAS, upon award of the Contract, Principal is required to furnish a payment bond whereby the Camino Real Regional Mobility Authority ("CRRMA") is named as an additional obligee under such bond; and

WHEREAS, Principal and _____ (the "Surety") have agreed to execute and deliver this Rider concurrently with the execution of Payment Bond No. _____ (hereinafter referred to as "Payment Bond") upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

CRRMA is hereby added to the Payment Bond as named obligee (hereinafter referred to as "Additional Obligee").

The Surety shall not be liable under the Bond to the Primary Obligee, the Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) substantially in accordance with the terms of said Contract as to payments; and the Surety shall not be liable under the Payment Bond to the Primary Obligee, Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by the Primary Obligee, the Additional Obligee, or either of them, shall have occurred, been declared by the Principal, and be continuing under the Contract.

The aggregate liability of the Surety under this Payment Bond, to any or all of the obligees, as their interests may appear, is limited to the penal sum of the Payment Bond. The Additional Obligee's rights hereunder are subject to the same defenses

Principal and/or Surety have against the Primary Obligee and/or the claimants under the Payment Bond, provided that the Additional Obligee has received notice and 30 days' prior opportunity to cure breach or default by the Primary Obligee under the Contract.

The Surety may, at its option, make any payments under the Payment Bond by check issued jointly to all of the obligees.

In the event of a conflict between the Payment Bond and this Rider, this Rider shall govern and control. All references to the Payment Bond, either in the Payment Bond or in this Rider, shall include and refer to the Payment Bond as supplemented and amended by this Rider. Except as herein modified, the Payment Bond shall be and remains in full force and effect.

Additional Obligee's prior written consent is required with respect to any proposed amendment to the Payment Bond, and no amendment shall be effective as to Additional Obligee without such consent. Additional Obligee hereby approves the amendment contemplated by the NTP2 Rider delivered concurrently with the execution of the Payment Bond.

Signed, sealed and dated this ____ day of _____, 20__.

_____

(Principal)
(Seal)

By: _____

(Title)

_____

(Surety)
(Seal)

By: _____

, Attorney-in-Fact

EXHIBIT 11

11-A Form of Retainage Bond
11-B Form of Dual Obligee Rider for Retainage Bond

EXHIBIT 11-A

FORM OF RETAINAGE BOND

CONTRACT NO. _____
COUNTY _____
BOND NO. _____

RETAINAGE BOND

KNOW ALL PERSONS BY THESE PRESENTS that CONTRACTOR, as Principal, and the undersigned surety, are held and firmly bound unto the State of Texas as Obligee, in the amount of FOUR PERCENT (4%) of the total amount paid the Principal under the contract, including any increases due to change orders, quantities of work, new items of work, or other additions as the Obligee may pay under the Contract, lawful money of the United States, well and truly to be paid to the State of Texas, and we bind ourselves, our heirs, successors, executors, and administrators jointly and severally, firmly by these presents.

Whereas, the Principal has entered into the above-referenced contract with the State of Texas, attached hereto, and

Whereas, under the contract, the Principal is required before commencing the work provided for in the contract to execute a bond in the above amount.

Now therefore, the condition of this obligation is such that if the Principal and its heirs, successors, executors, and administrators shall fully indemnify and save harmless the State of Texas from all costs and damages from valid claims filed within 90 days of notification of final acceptance of the work under the contract by any person or entity against the contract funds, and shall fully reimburse the State of Texas for amounts owed by the **Principal** to the State of Texas with regard to the contract after notification of final acceptance of the work, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

Provided further, that the said surety(s) for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, or to the work to be performed thereunder, or the Specifications accompanying the same, shall in anywise affect its obligation on this bond. The surety(s) does hereby waive notice of any such change, extension of time, alteration or addition, to the terms of the Contract or to the work or to the Specifications, unless otherwise specified in the contract.

WITNESS our hand this, _____day of_____, 20____.

CONTRACTOR

_____	By: _____
SURETY (Print Firm Name and Seal)	(Title)
*By:_____	By: _____
(Title)	(Title)
_____	_____
SURETY (Print Firm Name and Seal)	**SURETY** (Print Firm Name and Seal)
*By:_____	*By: _____
(Title)	(Title)

*NOTE: A Power of Attorney, showing that the surety officer or Attorney-In-Fact has authority to sign such obligation, must be impressed with the corporate seal and attached behind the Payment Bond in each contract.

This form has been approved by the ATTORNEY GENERAL OF TEXAS & TEXAS DEPARTMENT OF INSURANCE.

EXHIBIT 11-B

FORM OF DUAL OBLIGEE RIDER

(Retainage Bond)

DUAL OBLIGEE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Retainage Bond No. _____.

WHEREAS, the Texas Department of Transportation ("TxDOT" or "Primary Obligee") has awarded to _____, a _____ ("Principal"), a Development Agreement for the Loop 375 Border Highway West Extension Project, duly executed and delivered as of _____, 20__, (hereinafter called the "Contract"), on the terms and conditions set forth therein; and

WHEREAS, on or before issuance by TxDOT or NTP2, Principal is required to furnish a retainage bond whereby the Camino Real Regional Mobility Authority ("CRRMA") is named as an additional obligee under such bond; and

WHEREAS, Principal and _____ (the "Surety") have agreed to execute and deliver this Rider concurrently with the execution of Retainage Bond No. _____ (hereinafter referred to as "Retainage Bond") upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

CRRMA is hereby added to the Retainage Bond as named obligee (hereinafter referred to as "Additional Obligee").

The Surety shall not be liable under the Bond to the Primary Obligee, the Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) substantially in accordance with the terms of said Contract as to payments; and the Surety shall not be liable under the Retainage Bond to the Primary Obligee, Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by the Primary Obligee, Additional Obligee, or either of them, shall have occurred, been declared by the Principal, and be continuing under the Contract.

The aggregate liability of the Surety under this Retainage Bond, to any or all of the obligees, as their interests may appear, is limited to the penal sum of the Retainage Bond. The Additional Obligee's rights hereunder are subject to the same defenses

Principal and/or Surety have against the Primary Obligee and/or the claimants under the Retainage Bond, provided that the Additional Obligee has received notice and 30 days' prior opportunity to cure breach or default by the Primary Obligee under the Contract.

The Surety may, at its option, make any payments under the Retainage Bond by check issued jointly to all of the obligees.

In the event of a conflict between the Retainage Bond and this Rider, this Rider shall govern and control. All references to the Retainage Bond, either in the Retainage Bond or in this Rider, shall include and refer to the Retainage Bond as supplemented and amended by this Rider. Except as herein modified, the Retainage Bond shall be and remains in full force and effect.

Signed, sealed and dated this ____ day of _____, 20__.

_____

(Principal)
(Seal)

By: _____

(Title)

_____

(Surety)
(Seal)

By: _____

, Attorney-in-Fact

EXHIBIT 12

12-A Form of Warranty Bond
12-B Form of Dual Obligee Rider for Warranty Bond

EXHIBIT 12-A

FORM OF WARRANTY BOND

[To be replaced with actual Warranty Bond]

Loop 375 – Border Highway West Extension Project

Bond No. _____

WHEREAS, the Texas Department of Transportation ("Obligee"), has awarded to _____ ("Principal"), a Development Agreement for the Loop 375 – Border Highway West Extension Project, duly executed and delivered as of _____, 2014 (the "Contract"), on the terms and conditions set forth therein; and

WHEREAS, as a condition to Final Acceptance and release of the Performance Bond and Payment Bond, Principal is required to furnish a bond (this "Bond") guaranteeing the faithful performance of its obligations under the Contract Documents after Final Acceptance, including payment of claims by Subcontractors and Suppliers.

NOW, THEREFORE, Principal and _____, a _____ ("Surety"), an admitted surety insurer in the State of Texas, are held and firmly bound unto Obligee in the amount of $44,754,462 (the "Bonded Sum"), for payment of which sum Principal and Surety jointly and severally firmly bind themselves and their successors and assigns.

THE CONDITION OF THIS BOND IS SUCH THAT, if Principal shall promptly and faithfully perform all of its obligations under the Contract Documents, as they may be amended or supplemented, including without limitation the fulfillment of all Warranties, and payment of claims by Subcontractors and Suppliers, then the obligations under this Bond shall be null and void; otherwise this Bond shall remain in full force and effect, it being expressly understood and agreed that the liability of Surety for any and all claims hereunder shall in no event exceed the Bonded Sum.

The following terms and conditions shall apply with respect to this Bond:

1. The Contract Documents are incorporated by reference herein. Capitalized terms not separately defined herein have the meanings assigned such terms in the Contract.

2. This Bond shall inure to the benefit of all Subcontractors and Suppliers with respect to the Work, other than entities having an equity interest in Principal, so as to give a right of action to such persons and their assigns in any suit brought upon this Bond.

3. The guarantees contained herein shall survive Final Acceptance.

4. Whenever Principal shall fail to pay the lawful claims of any of the persons identified in Paragraph 2 above with respect to the Work, excluding entities having an equity interest in Principal, then Surety shall pay for the same in an amount not to exceed the Bonded Sum.

5. Whenever Principal shall be, and is declared by the Obligee to be, in default with respect to its obligations under the Contract Documents, provided that the Obligee is not then in material default thereunder, Surety shall promptly take one of the following actions with the consent of the Obligee:

a. arrange for Principal to perform and complete the Contract;

b. complete the Work in accordance with the terms and conditions of the Contract Documents then in effect, through its agents or through independent contractors;

c. obtain bids or negotiated proposals from qualified contractors acceptable to the Obligee for a contract for performance and completion of the Work (as defined in the Contract), through a procurement process approved by the Obligee, arrange for a contract to be prepared for execution by the Obligee and the contractor selected with the Obligee's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the Obligee the amount of damages as described in Paragraph 7 of this Bond in excess of the unpaid balance of the Price incurred by the Obligee resulting from the Principal's default; or

d. waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances, (i) after investigation, determine the amount for which it may be liable to the Obligee and, as soon as practicable after the amount is determined, tender payment therefore to the Obligee, or (ii) deny liability in whole or in part and notify the Obligee citing reasons therefore.

6. If Surety does not proceed as provided in Paragraph 5 of this Bond with reasonable promptness, Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Obligee to Surety demanding that Surety perform its obligations under this Bond, and the Obligee shall be entitled to enforce any remedy available to the Obligee. If Surety proceeds as provided in Subparagraph 5.d of this Bond, and the Obligee refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice the Obligee shall be entitled to enforce any remedy available to the Obligee.

7. After the Obligee has terminated the Principal's right to complete the Contract, and if Surety elects to act under Subparagraph 5.a, 5.b, or 5.c above, then the responsibilities of Surety to the Obligee shall not be greater than those of the Principal under the Contract, and the responsibilities of the Obligee to Surety shall not

be greater than those of the Obligee under the Contract. To the limit of the Bonded Sum, but subject to commitment of the unpaid balance of the Price to mitigation costs and damages on the Contract, Surety is obligated without duplication for:

a. the responsibilities of the Principal for correction of defective work and completion of the Work;

b. actual damages, including additional legal, design professional and delay costs resulting from Principal's default, and resulting from the actions or failure to act of Surety under Paragraph 5 of this Bond; and

c. Liquidated Damages under the Contract.

8. No alteration, modification or supplement to the Contract Documents or the nature of the work to be performed thereunder, including without limitation any extension of time for performance, shall in any way affect the obligations of Surety under this Bond, provided that the aggregate dollar amount of TxDOT-Directed Changes, without the Sureties' prior written consent thereto having been obtained, does not increase the Price by more than $44,754,462. Surety waives notice of any alteration, modification, supplement or extension of time other than Change Orders for TxDOT-Directed Changes in excess of such amount.

9. Correspondence or claims relating to this Bond should be sent to Surety at the following address:

_____
_____
_____

IN WITNESS WHEREOF, Principal and Surety have caused this Bond to be executed and delivered as of _____, 20__.

Principal: _____
By: _____
Its: _____
(Seal)

Surety: _____
By: _____
Its: _____
(Seal)

[*ADD APPROPRIATE SURETY ACKNOWLEDGMENTS*]

SURETY

_____
or secretary attest

By:_____
Name
Title:
Address:

EXHIBIT 12-B

FORM OF DUAL OBLIGEE RIDER

(Warranty Bond)

DUAL OBLIGEE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Warranty Bond No. _____.

WHEREAS, the Texas Department of Transportation ("TxDOT" or "Primary Obligee") has awarded to _____, a _____ ("Principal"), a Development Agreement for the Loop 375 Border Highway West Extension Project, duly executed and delivered as of _____, 20__, (hereinafter called the "Contract"), on the terms and conditions set forth therein; and

WHEREAS, after Final Acceptance and upon release of the Payment and Performance Bonds, Principal is required to furnish a warranty bond whereby the Camino Real Regional Mobility Authority ("CRRMA") is named as an additional obligee under such bond; and

WHEREAS, Principal and _____ (the "Surety") have agreed to execute and deliver this Rider concurrently with the execution of Warranty Bond No. _____ (hereinafter referred to as "Warranty Bond") upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

CRRMA is hereby added to the Warranty Bond as named obligee (hereinafter referred to as "Additional Obligee").

The Surety shall not be liable under the Bond to the Primary Obligee, the Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) substantially in accordance with the terms of said Contract as to payments; and the Surety shall not be liable under the Warranty Bond to the Primary Obligee, Additional Obligee, or either of them, unless the Primary Obligee, the Additional Obligee, or either of them, shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by the Primary Obligee, Additional Obligee, or either of them, shall have occurred, been declared by the Principal, and be continuing under the Contract.

The aggregate liability of the Surety under this Warranty Bond, to any or all of the obligees, as their interests may appear, is limited to the penal sum of the Warranty

Bond. The Additional Obligee's rights hereunder are subject to the same defenses Principal and/or Surety have against the Primary Obligee and/or the claimants under the Warranty Bond, provided that the Additional Obligee has received notice and 30 days' prior opportunity to cure breach or default by the Primary Obligee under the Contract.

The Surety may, at its option, make any payments under the Warranty Bond by check issued jointly to all of the obligees.

In the event of a conflict between the Warranty Bond and this Rider, this Rider shall govern and control. All references to the Warranty Bond, either in the Warranty Bond or in this Rider, shall include and refer to the Warranty Bond as supplemented and amended by this Rider. Except as herein modified, the Warranty Bond shall be and remains in full force and effect.

Signed, sealed and dated this ____ day of _____, 20__.

_____

(Principal)
(Seal)

By: _____

(Title)

_____

(Surety)
(Seal)

By: _____

, Attorney-in-Fact

EXHIBIT 13

FORM OF GUARANTY

GUARANTY

THIS GUARANTY (this "Guaranty") is made as of _____, 20__ by _____, a _____ ("Guarantor"), in favor of the TEXAS DEPARTMENT OF TRANSPORTATION, an agency of the State of Texas ("TxDOT").

R E C I T A L S

A. _____, as developer ("Developer"), and TxDOT are parties to that certain Development Agreement (the "Agreement") pursuant to which the Developer has agreed to develop, design, and construct the Project. Initially capitalized terms used herein without definition will have the meaning given such term in the Contract Documents.

B. To induce TxDOT to (i) enter into the Agreement; and (ii) consummate the transactions contemplated thereby, Guarantor has agreed to enter into this Guaranty.

C. Developer is a _____. The Guarantor is _____. The execution of the Agreement by TxDOT and the consummation of the transactions contemplated thereby will materially benefit Guarantor. Without this Guaranty, TxDOT would not have entered into the Agreement with Developer. Therefore, in consideration of TxDOT's execution of the Agreement and consummation of the transactions contemplated thereby, Guarantor has agreed to execute this Guaranty.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. Guaranty. Guarantor guarantees to TxDOT and its successors and assigns the full and prompt payment and performance when due of all of the obligations of the Developer arising out of, in connection with, under or related to the Contract Documents. The obligations guaranteed pursuant to this Guaranty are collectively referred to herein as the "Guaranteed Obligations."

2. Unconditional Obligations. This Guaranty is a guaranty of payment and performance and not of collection. Except as provided in Section 21, this Guaranty is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred, and whether or not enforceable against the Developer. If any payment made by the Developer or any other Person and applied to the Guaranteed Obligations is at any time

annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor's obligations hereunder will not be released, discharged or otherwise affected by: (a) any change in the Contract Documents or the obligations thereunder, or any insolvency, bankruptcy or similar proceeding affecting the Developer, Guarantor or their respective assets, and (b) the existence of any claim or set-off which the Developer has or Guarantor may have against TxDOT, whether in connection with this Guaranty or any unrelated transaction, provided that nothing in this Guaranty will be deemed a waiver by Guarantor of any claim or prevent the assertion of any claim by separate suit. This Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or the existence, validity, enforceability, perfection, or extent of any collateral therefor or any other circumstances relating to the Guaranteed Obligations, except as provided in Section 21.

3. <u>Independent Obligations</u>. Guarantor agrees that the Guaranteed Obligations are independent of the obligations of the Developer and if any default occurs hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not the Developer is joined therein. TxDOT may maintain successive actions for other defaults of Guarantor. TxDOT's rights hereunder will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been paid and fully performed.

a. Guarantor agrees that TxDOT may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against the Developer. Guarantor hereby waives the right to require TxDOT to proceed against the Developer, to exercise any right or remedy under any of the Contract Documents or to pursue any other remedy or to enforce any other right.

b. Guarantor will continue to be subject to this Guaranty notwithstanding: (i) any modification, agreement or stipulation between the Developer and TxDOT or their respective successors and assigns, with respect to any of the Contract Documents or the Guaranteed Obligations; (ii) any waiver of or failure to enforce any of the terms, covenants or conditions contained in any of the Contract Documents or any modification thereof; (iii) any release of the Developer from any liability with respect to any of the Contract Documents; or (iv) any release or subordination of any collateral then held by TxDOT as security for the performance by the Developer of the Guaranteed Obligations.

c. The Guaranteed Obligations are not conditional or contingent upon the genuineness, validity, regularity or enforceability of any of the Contract Documents or the pursuit by TxDOT of any remedies which TxDOT either now has or may hereafter have with respect thereto under any of the Contract Documents.

d. Notwithstanding anything to the contrary contained elsewhere in this Guaranty, Guarantor's obligations and undertakings hereunder are derivative of, and not in excess of, the obligations of the Developer under the Agreement. Accordingly, in the event that the Developer's obligations have been changed by any modification, agreement or stipulation between Developer and TxDOT or their respective successors or assigns, this Guaranty shall apply to the Guaranteed Obligations as so changed.

4. <u>Liability of Guarantor.</u>

a. TxDOT may enforce this Guaranty upon the occurrence of a breach by the Developer of any of the Guaranteed Obligations, notwithstanding the existence of any dispute between TxDOT and the Developer with respect to the existence of such a breach.

b. Guarantor's performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor's liability for those Guaranteed Obligations that have not been performed.

c. TxDOT, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor's liability hereunder, from time to time may (i) with respect to the financial obligations of the Developer, if and as permitted by the Agreement, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations, (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto, (iii) request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment and performance of this Guaranty or the Guaranteed Obligations, (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations, (v) enforce and apply any security hereafter held by or for the benefit of TxDOT in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that TxDOT may have against any such security, as TxDOT in its discretion may determine, and (vi) exercise any other rights available to it under the Contract Documents.

d. This Guaranty and the obligations of Guarantor hereunder will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than indefeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Contract Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Contract Documents or any agreement or instrument executed pursuant thereto; (iii) TxDOT's consent to the change, reorganization or termination of the corporate structure or existence of the Developer; (iv) any defenses, set-offs or counterclaims that the Developer may allege or assert against TxDOT in respect of the Guaranteed Obligations, except as provided in Section 21.

5. <u>Waivers.</u> To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of: (a) any right to require TxDOT to proceed against the Developer or any other Person or to proceed against or exhaust any security held by TxDOT at any time or to pursue any right or remedy under any of the Contract Documents or any other remedy in TxDOT's power before proceeding against Guarantor; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereby by Guarantor, the Developer or any other Person or the failure of TxDOT to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person; (c) any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof; (d) any right or defense arising out of an election of remedies by TxDOT even though the election of remedies, such as nonjudicial foreclosure with respect to any security for the Guaranteed Obligations, has destroyed the Guarantor's rights of subrogation and reimbursement against the Developer by the operation of law or otherwise; (e) all notices to Guarantor, to the Purchasers, to any Purchaser or to any other Person, including, but not limited to, notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of the obligations of the Developer under any of the Contract Documents, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto, except the notice required in Section 16.1.3 of the Agreement; (f) any defense based upon any act or omission of TxDOT which directly or indirectly results in or aids the discharge or release of the Developer, Guarantor or any security given or held by TxDOT in connection with the Guaranteed Obligations; and (g) any and all suretyship defenses under applicable law.

6. <u>Waiver of Subrogation and Rights of Reimbursement.</u> Until the Guaranteed Obligations have been indefeasibly paid in full, Guarantor waives any

claim, right or remedy which it may now have or may hereafter acquire against the Developer that arises from the performance of Guarantor hereunder, including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of TxDOT against the Developer, or any other security or collateral that TxDOT now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. All existing or future indebtedness of Developer or any shareholders, partners, members, joint venturers of Developer to Guarantor is subordinated to all of the Guaranteed Obligations. Whenever and for so long as the Developer shall be in default in the performance of a Guaranteed Obligation, no payments with respect to any such indebtedness shall be made by Developer or any shareholders, partners, members, joint venturers of Developer to Guarantor without the prior written consent of TxDOT. Any payment by Developer or any shareholders, partners, members, joint venturers of Developer to Guarantor in violation of this provision shall be deemed to have been received by Guarantor as trustee for TxDOT.

7. <u>Waivers by Guarantor if Real Property Security.</u> If the Guaranteed Obligations are or become secured by real property or an estate for years, Guarantor waives all rights and defenses that Guarantor may have because the Guaranteed Obligations are secured by real property. This means, among other things:

a. TxDOT may collect from Guarantor without first foreclosing on any real or personal property collateral pledged by the Developer.

b. If TxDOT forecloses on any real property collateral pledged by the Developer:

(1) The amount of the Guaranteed Obligation may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(2) TxDOT may collect from Guarantor even if TxDOT, by foreclosing on the real property collateral, has destroyed any right Guarantor may have to collect from the Developer.

This is an unconditional and irrevocable waiver of any rights and defenses Guarantor may have because the Guaranteed Obligations secured by real property.

8. <u>Cumulative Rights</u>. All rights, powers and remedies of TxDOT hereunder will be in addition to and not in lieu of all other rights, powers and remedies given to TxDOT, whether at law, in equity or otherwise.

9. <u>Representations and Warranties.</u> Guarantor represents and warrants that:

a. it is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware and qualified to do business and is in good standing under the laws of the State of Texas;

b. it has all requisite corporate power and authority to execute, deliver and perform this Guaranty;

c. the execution, delivery, and performance by Guarantor of this Guaranty have been duly authorized by all necessary corporate action on the part of Guarantor and proof of such authorization will be provided with the execution of this Guaranty;

d. this Guaranty has been duly executed and delivered and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms;

e. neither the execution nor delivery of this Guaranty nor compliance with or fulfillment of the terms, conditions, and provisions hereof, will conflict with, result in a material breach or violation of the terms, conditions, or provisions of, or constitute a material default, an event of default, or an event creating rights of acceleration, termination, or cancellation, or a loss of rights under: (1) the certificate of incorporation or by-laws of Guarantor, (2) any judgment, decree, order, contract, agreement, indenture, instrument, note, mortgage, lease, governmental permit, or other authorization, right restriction, or obligation to which Guarantor is a party or any of its property is subject or by which Guarantor is bound, or (3) any federal, state, or local law, statute, ordinance, rule or regulation applicable to Guarantor;

f. it now has and will continue to have full and complete access to any and all information concerning the transactions contemplated by the Contract Documents or referred to therein, the financial status of the Developer and the ability of the Developer to pay and perform the Guaranteed Obligations;

g. it has reviewed and approved copies of the Contract Documents and is fully informed of the remedies TxDOT may pursue, with or without notice to the Developer or any other Person, in the event of default of any of the Guaranteed Obligations;

h. it has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of the Developer and will keep itself fully informed as to all aspects of the financial condition of the Developer, the performance of the Guaranteed Obligations of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of TxDOT to disclose any matter, fact or thing relating to the business, operations or conditions of the Developer now known or hereafter known by TxDOT;

i. no consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental

authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date hereof; and

j. there is no pending or, to the best of its knowledge, threatened action, suit, proceeding, arbitration, litigation, or investigation of or before any Governmental Authority which challenges the validity or enforceability of this Guaranty.

10. Governing Law. The validity, interpretation and effect of this Guaranty are governed by and will be construed in accordance with the laws of the State of Texas applicable to contracts made and performed in such State and without regard to conflicts of law doctrines except to the extent that certain matters are preempted by Federal law. Guarantor consents to the jurisdiction of the State of Texas with regard to this Guaranty. The venue for any action regarding this Guaranty shall be Travis County, Texas.

11. Entire Document. This Guaranty contains the entire agreement of Guarantor with respect to the transactions contemplated hereby, and supersede all negotiations, representations, warranties, commitments, offers, contracts and writings prior to the date hereof, written or oral, with respect to the subject matter hereof. No waiver, modification or amendment of any provision of this Guaranty is effective unless made in writing and duly signed by TxDOT referring specifically to this Guaranty, and then only to the specific purpose, extent and interest so provided.

12. Severability. If any provision of this Guaranty is determined to be unenforceable for any reason by a court of competent jurisdiction, it will be adjusted rather than voided, to achieve the intent of the parties and all of the provisions not deemed unenforceable will be deemed valid and enforceable to the greatest extent possible.

13. Notices. Any communication, notice or demand of any kind whatsoever under this Guaranty shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to TxDOT: Texas Department of Transportation
7600 Chevy Chase Drive, Bldg 2, Suite 400
Austin, Texas 78752
Attention: Mr. Frank Holzmann. P.E.
Telephone: (210) 610-4800

With copies to: Texas Department of Transportation
Office of General Counsel
125 East 11th Street
Attention: John J. Ingram, Esq.
Telephone: (512) 463-8630
Facsimile: (512) 475-3070

If to Guarantor: _____
_____
_____
Attention:_____
Telephone:_____
Facsimile:_____

Either Guarantor or TxDOT may from time to time change its address for the purpose of notices by a similar notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents.

All notices and other communications required or permitted under this Guaranty which are addressed as provided in this Section 13 are effective upon delivery, if delivered personally or by overnight mail, and, are effective five (5) days following deposit in the United States mail, postage prepaid if delivered by mail.

14. Captions. The captions of the various Sections of this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Guaranty.

15. Assignability. This Guaranty is binding upon and inures to the benefit of the successors and assigns of Guarantor and TxDOT, including Camino Real regional Mobility Authority, but is not assignable by Guarantor without the prior written consent of TxDOT, which consent may be granted or withheld in TxDOT's sole discretion. Any assignment by Guarantor effected in accordance with this Section 15 will not relieve Guarantor of its obligations and liabilities under this Guaranty.

16. Construction of Agreement. Ambiguities or uncertainties in the wording of this Guaranty will not be construed for or against any party, but will be construed in the manner that most accurately reflects the parties' intent as of the date hereof.

17. No Waiver. Any forbearance or failure to exercise, and any delay by TxDOT in exercising, any right, power or remedy hereunder will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.

18. Bankruptcy; Post-Petition Interest; Reinstatement of Guaranty.

(a) The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Developer or by any defense which the Developer may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. TxDOT is not obligated to file any claim relating to the Guaranteed Obligations if the Developer becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of TxDOT so to file will not affect Guarantor's obligations under this Guaranty.

(b) Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if said proceedings had not been commenced) will be included in the Guaranteed Obligations because it is the intention of Guarantor and TxDOT that the Guaranteed Obligations should be determined without regard to any rule of law or order which may relieve the Developer of any portion of such Guaranteed Obligations. Guarantor will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or any similar person to pay TxDOT, or allow the claim of TxDOT in respect of, any such interest accruing after the date on which such proceeding is commenced.

19. Attorneys' Fees. Guarantor agrees to pay to TxDOT without demand reasonable attorneys' fees and all costs and other expenses (including such fees and costs of litigation, arbitration and bankruptcy, and including appeals) incurred by TxDOT in enforcing, collecting or compromising any Guaranteed Obligation or enforcing or collecting this Guaranty against Guarantor or in attempting to do any or all of the foregoing.

20. Joint and Several Liability. If the Guarantor is composed of more than one individuals and/or entities, such individuals and/or entities, as applicable, shall be jointly and severally liable for the Guaranteed Obligations. If more than one guaranty is executed with respect to the Developer and the Project, each guarantor under such a guaranty shall be jointly and severally liable with the other guarantors with respect to the obligations guaranteed under such guaranties.

21. Defenses. Notwithstanding any other provision to the contrary, Guarantor shall be entitled to the benefit of all defenses available to the Developer

under the Agreement except (a) those expressly waived in this Guaranty, (b) failure of consideration, lack of authority of the Developer and any other defense to formation of the Agreement, and (c) defenses available to the Developer under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors. Action against Guarantor under this Guaranty shall be subject to no prior notice or demand except for the notice provided in Section 16.1.3 of the Agreement.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

_____
a _____

By: _____
Name:_____
Title:_____

By: _____
Name:_____
Title:_____

EXHIBIT 14

INSURANCE COVERAGE REQUIREMENTS

1. Builder's Risk Insurance During Construction

At all times during the period from the commencement of Construction Work until Final Acceptance, Developer shall procure and keep in force a policy of builder's risk insurance as specified below.

(a) The policy shall provide coverage for "all risks" of direct physical loss or damage to the portions or elements of the Project under construction, excluding terrorism but including the perils of earthquake, earth movement, flood, storm, tempest, windstorm, hurricane, and tornado and subsidence; shall contain extensions of coverage that are typical for a project of the nature of the Project; and shall contain only those exclusions that are typical for a project of the nature of the Project.

(b) The policy shall cover (i) all property, roads, buildings, structures, fixtures, materials, supplies, foundations, pilings, machinery and equipment that are part of or related to the portions or elements of the Project under construction, and the works of improvement, including permanent and temporary works and materials, and including goods intended for incorporation into the works located at the Site, in storage or in the course of inland transit on land to the Site, and (ii) unless covered by property insurance maintained by Developer, all existing property and improvements that are within the construction work zone or are or will be affected by the Construction Work.

(c) The policy shall provide coverage per occurrence up to the full replacement cost of the covered property loss, including a sublimit acceptable to TxDOT without risk of co-insurance; provided, however, that the policy may also include the following sublimits (i) for earth movement and flood, not less than $5,000,000 per occurrence and $10,000,000 aggregate; (ii) for the peril of Named Windstorm, not less than $100,000,000; (iii) for existing property and improvements, not less than $5,000,000; (iv) for building ordinance compliance, not less than $5,000,000; (v) for "soft cost expense," sublimits acceptable to TxDOT and not less than $5,000,000; (vi) for delay expense, not less than $10,000,000; (vii) for demolition, not less than $5,000,000; (viii) for debris removal, not less than $25,000,000; and (ix) for professional fees, not less than $2,000,000.

(d) TxDOT shall be named as an additional insured on the policy as its interests appear. Developer also may, but is not obligated to, include other Subcontractors as named insured as their respective interests appear. The policy shall be written so that no act or omission of any insured shall vitiate coverage of the other insureds. Developer may name itself as loss payee under the policy.

(e) The policy shall include coverage for (i) foundations, including pilings, but excluding normal settling, shrinkage, or expansion, (ii) physical damage

resulting from machinery accidents but excluding normal and natural wear and tear, corrosion, erosion, inherent vice or latent defect in the machinery, (iii) plans, blueprints and specifications, (iv) physical damage resulting from faulty work or faulty materials, but excluding the cost of making good such faulty work or faulty materials, (v) physical damage resulting from design error or omission but excluding the cost of making good such design error or omission, (vi) demolition and debris removal coverage, (vii) the increased replacement cost due to any change in applicable codes or other Laws, (viii) expense to reduce loss, (ix) building ordinance compliance, with the building ordinance exclusion deleted, (x) loss of revenue due to delays in start-up, and (xi) "soft cost expense" (including costs of Governmental Approvals, mitigation costs, attorneys' fees, and other fees and costs associated with such damage or loss or replacement thereof).

(f) The policy shall provide a deductible or self-insured retention not exceeding $1,000,000 per occurrence.

2. Commercial General Liability Insurance

At all times during the performance of the Work, Developer shall procure and keep in force, or cause to be procured and kept in force, commercial general liability insurance as specified below. During any period in which Developer, at its election, maintains in effect builder's third party liability insurance pursuant to Section 3 of this Exhibit 14, the commercial general liability insurance policy need not duplicate the builder's third party liability insurance coverage.

(a) The policy shall be in form reasonably acceptable to TxDOT, and shall be an occurrence form. The policy shall contain extensions of coverage that are typical for a project of the nature of this Project, and shall contain only those exclusions that are typical for a project of the nature of this Project.

(b) The policy shall insure against the legal liability of the insureds named in Section 2(d), relating to claims by third parties for accidental death, bodily injury or illness, property damage, personal injury and advertising injury, and shall include the following specific coverages:

(i) Contractual liability;

(ii) Premises/operations;

(iii) Independent contractors;

(iv) Products and completed operations (with acknowledgement that the Project constitutes the premises and not a product);

(v) Broad form property damage, providing the same coverage as ISO form CG 00 01 12 07 provides;

(vi) Hazards commonly referred to as "XCU", including explosion, collapse and underground property damage;

(vii) Fellow employee coverage for supervisory personnel;

(viii) Incidental medical malpractice;

(ix) No exclusion for work performed within 50 feet of a railroad;

(x) Except with regard to indemnifying a professional advisor, consultant, sub-consultant, Supplier or manufacturer engaged by Developer, no application of any limitation or exclusion for bodily injury or property damage arising out of professional services, including engineering, architecture and surveying, in any manner to (A) coverage respecting Developer's supervision, coordination, management, scheduling or other similar services or (B) the products and completed operations coverage;

(xi) Broad named insured endorsement; and

(xii) Non-owned automobile liability, unless covered by the automobile liability policy pursuant to Section 4 of this Exhibit 14.

(c) The policy shall have limits of not less than $50,000,000 per occurrence and in the aggregate per policy period. Such limits may be provided through umbrella insurance and shall be shared by all insured and additional insured parties and shall reinstate annually, and may be included in an umbrella insurance combined with such other insurance that this Exhibit 14 stipulates may be similarly included.

(d) TxDOT and the Indemnified Parties shall be named as additional insured's, using ISO Form CG 20 10 07 04, 20 33 07 04, 20 37 07 04, 20 26 07 04 or its equivalent(s). The policy shall be written so that no act or omission of a named insured shall vitiate coverage of the other named insured.

(e) The policy shall provide one of the following, as Developer selects:

(i) A deductible or self-insured retention not exceeding $100,000 per occurrence;

(ii) A deductible or self-insured retention not exceeding $250,000 per occurrence with an aggregate of $2,000,000 per policy period; or

(iii) A deductible (but not self-insured retention) of $500,000 per occurrence but only if the primary policy and any excess policy are written to obligate the insurers to compensate the claimant on a first dollar basis.

3. Builder's Third Party Liability Insurance

During any period in which Construction Work is performed, Developer, at its election, may procure and keep in effect builder's third party liability insurance, as specified below, in lieu of commercial general liability insurance coverage for

construction activities (but Developer shall maintain commercial general liability insurance coverage for all non-construction-related activities).

(a) The policy shall insure against liability to third parties for accidental death, bodily injury or illness, property damage, personal injury and advertising injury, arising out of the Construction Work or other work of construction or the improvements under construction or any Construction Work performed during the Warranty Term. The policy shall contain extensions of coverage that are typical for a project of the nature of the Project, and shall contain only those exclusions that are typical for a project of the nature of the Project.

(b) The policy shall otherwise include the same provisions as described for the commercial general liability insurance under Sections 2(b) through (e) of this Exhibit 14.

4. Automobile Liability Insurance

At all times during the performance of the Work, Developer shall procure and keep in force comprehensive, business, or commercial automobile liability insurance as specified below.

(a) Each policy shall cover accidental death, bodily injury and property damage liability arising from the ownership, maintenance or use of all owned, non-owned and hired vehicles connected with performance of the Work, including loading and unloading. The policy shall contain extensions of coverage that are typical for a project of the nature of the Project, and shall contain only those exclusions that are typical for a project of the nature of the Project.

(b) Developer shall be the named insured under its automobile liability policy.

(c) Developer's policy shall have a single limit per policy period of not less than $50,000,000 any one claim, and may be included in an umbrella insurance combined with such other insurance that this Exhibit 14 stipulates may be similarly included.

(d) Each policy shall provide a deductible not exceeding $250,000 per occurrence.

5. Pollution Liability Insurance

Developer shall procure and maintain during the Term insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Developer, its agents, representatives, employees or subcontractors. Coverage shall be at least broad as:

(a) Contractors Pollution Liability with coverage for losses caused by pollution conditions that arise from the operations of the Developer described under the scope of services of this Development Agreement:

(i) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; medical monitoring,

(ii) Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;

(iii) Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;

(iv) Non-owned Disposal Site coverage for specified sites (by endorsement) if contractor is disposing of waste(s).

(b) Coverage shall apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, provided such conditions are not naturally present in the environment in the concentration or amounts discovered, unless such natural condition(s) are released or dispersed as a result of the performance of Covered Operations.

(c) Contractor's Pollution Liability (occurrence form): Developer shall maintain limits no less than $10,000,000 per occurrence/$10,000,000 aggregate for the term of the Agreement.

(d) The policy shall provide a deductible or self-insured retention not exceeding $250,000 per occurrence.

(e) TxDOT shall be named as an additional insured on the policy. The specific scope of services required under the Development Agreement shall be listed on the certificate of insurance.

6. Professional Liability Insurance

At all times that Professional Services are rendered under the Agreement respecting design and construction of the Project until five years after the Professional Services have concluded for the Project, Developer shall procure and keep in force, or cause to be procured and kept in force, professional liability insurance as specified in subparagraphs (a), (b) and (c) below; provided, however, that the total term of such professional liability coverage need not extend beyond ten (10) years. Developer or the procurer of this insurance may satisfy such insurance via a Project policy covering all the foregoing providers of Professional Services.

(a) The insurance policy shall be Project-specific and provide coverage of liability of the party performing the Professional Services arising out of any negligent act, error or omission in the performance of Professional Services or activities for the Project, including for bodily injury or property damage.

(b) The insurance policy shall have a limit of not less than $10,000,000 per claim and in the aggregate. The aggregate limit need not reinstate annually.

(c) The insurance policy shall provide a deductible or self-insured retention not exceeding $1,000,000 per occurrence.

In addition, Developer shall cause each other Subcontractor that provides Professional Services for the Project to procure and keep in force professional liability insurance, covering its professional services practice, of not less than $2,000,000 per claim and in the aggregate per annual policy period. Such policy need not be Project-specific or include a tail period for making claims, and shall include a commercially reasonable deductible.

7. Workers' Compensation Insurance

At all times when Work is being performed by any employee of Developer, Developer shall procure and keep in force, or cause to be procured and kept in force, a policy of workers' compensation insurance for the employee in conformance with applicable Law. Developer shall be the named insured on these policies. The workers' compensation insurance policy shall contain the following endorsements:

(a) An endorsement extending the policy to cover the liability of the insureds under the Federal Employer's Liability Act, to the extent required under such Act;

(b) A voluntary compensation endorsement;

(c) An alternative employer endorsement; and

(d) An endorsement extending coverage to all states operations on an "if any" basis.

8. Employer's Liability Insurance

At all times during the performance of the Work, Developer shall procure and keep in force, or cause to be procured and kept in force, employer's liability insurance as specified below.

(a) The policy shall insure against liability for death, bodily injury, illness or disease for all employees of Developer working on or about any Site or otherwise engaged in the work.

(b) Developer shall be the named insured.

(c) The policy shall have a limit of not less than $25,000,000 per accident and in the aggregate during the period of insurance, and may be included in an umbrella insurance combined with such other insurance that this Exhibit 14 stipulates may be similarly included.

9. Railroad Insurance

Developer shall procure and keep in force, or cause to be procured and kept in force, prior to performing any Work across, under or adjacent to the railroad's tracks or railroad right-of-way, the following types of insurance as may be required by the operating railroad:

1. Railroad Protective Liability Insurance Policy

2. Comprehensive General Liability Insurance

3. Contractors' Protective Liability Insurance.

All insurance policies (except the Railroad Protective Liability Insurance Policy, which will name the railroad only) shall be in a form acceptable to the operating railroad and shall name TxDOT, TxDOT's Consultants, and railroad as named insureds. . Copies of all insurance policies shall be submitted to TxDOT prior to any entry by Developer upon operating railroad property. In the event any agreement between TxDOT and a railroad includes insurance requirements applicable to the Work, Developer shall procure and keep in force or cause to be procured and kept in force, insurance meeting such requirements.

10. Subcontractors' Insurance

(a) At all times during the performance of the Work, Developer shall cause each Subcontractor that performs work on the Site to provide commercial general liability insurance that complies with Section 9 of the Agreement, with commercially reasonable limits and deductibles or self-insured retentions, in circumstances where the Subcontractor is not covered by Developer-provided liability insurance. Developer shall cause each such Subcontractor that provides such insurance to include each of the Indemnified Parties as additional insureds under such Subcontractor's liability insurance policies. Such insurance need not be Project-specific. TxDOT shall have the right to contact the Subcontractors directly in order to verify the above coverage.

(b) At all times during the performance of the Work, Developer shall cause each Subcontractor that has vehicles on the Site or uses vehicles in connection with the work to procure and keep in force, comprehensive, business, or commercial automobile liability insurance meeting the requirements as specified below.

(i) Each policy shall cover accidental death, bodily injury and property damage liability arising from the ownership, maintenance or use of all owned, non-owned and hired vehicles connected with performance of the Work. The policy shall contain extensions of coverage that are typical for a project of

the nature of the Project, and shall contain only those exclusions that are typical for a project of the nature of the Project.

(ii) Each such Subcontractor shall be the named insured under its respective automobile liability policy.

(iii) Each policy shall have a combined single limit per policy period of not less than $1,000,000.

(iv) Each policy shall include each of the Indemnified Parties as additional insureds.

(c) At all times when Work is being performed by any employee of a Subcontractor, Developer shall cause subcontractor to procure and keep in force, or cause to be procured and kept in force, a policy of workers' compensation insurance for the employee in conformance with applicable Law. Subcontractor shall be the named insured on these policies. The workers' compensation insurance policy shall contain the following endorsements:

(i) An endorsement extending the policy to cover the liability of the insureds under the Federal Employer's Liability Act;

(ii) A voluntary compensation endorsement;

(iii) An alternative employer endorsement; and

(iv) An endorsement extending coverage to all states operations on an "if any" basis.

(d) At all times during the performance of the Work, Developer shall cause each Subcontractor to procure and keep in force employer's liability insurance as specified below.

(i) The policy shall insure against liability for death, bodily injury, illness or disease for all employees of subcontractor working on or about any Site or otherwise engaged in the work.

(ii) Subcontractor shall be the named insured.

(iii) (a) For Subcontractors that are Major Subcontractors, the policy shall have a limit of not less than $5,000,000 per accident and in the aggregate during the period of insurance, (b) for all other Subcontractors, the policy shall have a limit of not less than $2,000,000 per accident and in the aggregate during the period of insurance. Such coverage may be included in an umbrella insurance combined with such other insurance that this Exhibit 14 stipulates may be similarly included.

EXHIBIT 15

FORM OF DRAW REQUEST AND CERTIFICATE

Draw Request # _____ Date: _____
month/day/year

Texas Department of Transportation
[Address]

"Entry Required in Cell"

A. Draw Request for Work performed for the period: _____ to _____
month/day/year month/day/year

B. Original Contract Amount	
C. Approved Change Order Amounts	
D. Revised Contract Amount (B+C)	$0.00
E. Cumulative Amount Earned to Date	
F. Cumulative Maximum Payment Schedule Allowance (this period from Exhibit 5)	
G. Cumulative Amount of Previous Draw Requests	
H. Amount Qualified for Payment this Period (Lesser of "E-G" or "F-G ") (includes Electronic Communications Allowance and Landscaping allowance work described below)	$0.00
I. Retainage Percentage this Draw Request for Record Drawings (1% of "H")	$0.00
J. Deduction from progress payment per Section 12.3.2 of the Agreement (this Draw Request)	$
	$
K. Total deductions (“I” + “J”)	$

L. Current Amount Due ("H" - "K")	$
U.S. Customs and Border Protection Allowance (this Draw Request)	$
BNSF Partial Work Allowance (this Draw Request)	$

Printed Name Developer's Project Manager	Signature	month/day/year
Printed Name TxDOT Program Manager	Signature	month/day/year
Printed Name Texas Department of Transportation	Signature	month/day/year

(Note: See Sheet 4 of 4 for Draw Request Checklist)

DRAW REQUEST NO. _____ CERTIFICATION

The undersigned hereby certifies that (choose applicable bracketed language):

- Except as specifically noted in this certification, all Work, including that of designers, Subcontractors, and Suppliers, which is the subject of this Draw Request has been checked and/or inspected by [the Professional Services Quality Control Manager with respect to Professional Services] [the Construction Quality Acceptance Firm with respect to construction Work];

- Except as specifically noted in this certification, all [Professional Services] [construction Work] which is the subject of this Draw Request conforms to the requirements of the Contract Documents;

- [The professional services quality program] [The Construction Quality Program] and all of the measures and procedures provided therein are functioning properly and are being followed; and

- [The Professional Services percentages and construction percentages indicated are accurate and correct.] [All quantities for which payment is requested on a unit price basis are accurate.]

Exceptions:

_____

_____

_____

_____ _____

Name: _____ Date

[PSQCM] [CQAF] Representative

Seal:

DRAW REQUEST CHECKLIST

Enclosed with this cover sheet are the following:

- ☐ Monthly progress report as described in Section 2.1.1.2.1 of the Technical Provisions
- ☐ Certifications by the Professional Services Quality Control Manager and the Construction Quality Acceptance Firm;
- ☐ Monthly report of personnel hours;
- ☐ Draw Request data sheet(s) and documents that support and substantiate the amount requested;
- ☐ An approved Schedule of Values or an approved revised Schedule of Values as described in Section 2.1.1.2.11 of the Technical Provisions;
- ☐ DBE utilization reports;
- ☐ Cash flow curves and comparison to the Maximum Payment Schedule;
- ☐ An approved Project Baseline Schedule Update as described in Section 2.1.1.3 of the Technical provisions.

EXHIBIT 16

FORM OF CHANGE ORDER

CHANGE ORDER REQUEST NO. _____ CONTRACT NO. _____

SECTION I

Originator:_____ Date: _____

- **Title: _____**

Contract No: _____

- **Company Name: _____**

DESCRIPTION:

_____
_____
_____
_____
_____

SCOPE:

_____
_____
_____
_____
_____

REASON FOR REQUEST FOR CHANGE ORDER:

_____
_____
_____
_____
_____

_____
Developer Project Manager Date

SECTION II

The total amount of this Change Order is $ _____. Documentation supporting the Change Order is attached as Exhibits _____ through _____.

Payment Schedule Items Added/Deducted:

Activity No. Description Amount

_____ _____ _____

This Change Order Request is for (check the applicable categories below):

- _____ A lump sum, negotiated price Change Order (provide information in Section IIA below)
- _____ A unit price/quantities Change Order (provide information in Section IIB below)
- _____ A Time and Materials Change Order (provide information in Section IIC below)

Section IIA

Lump sum price is $_____

Section IIB

UNIT PRICE ITEM	UNIT PRICE	QUANTITY	PRICE (Unit Price x Quantity)

Total of all items in above Table: $_____

Section IIC

Summary of Change Order Request by Categories: [Additives/(Credits)]

A. Developer Labor (construction)

	1.	Wages	$ _____
	2.	Labor benefits[1] (55% of A.1)	$ _____
B.	Developer and Subcontractor Labor (professional services)		
	1.	Wages (Raw)	$ _____
	2.	Labor benefits[1] (145% of B.1, which includes overhead and profit)	$ _____
	3.	Off-duty peace officers and patrol cruisers	$ _____
C.	Materials (with taxes, freight and discounts)		$ _____
D.	Equipment[2]		$ _____
E.	Subcontracts (Time and Materials cost)		$ _____
F.	Utility Direct Costs		$ _____
G.	Overhead and Profit		
	1.	Labor (25% of A.1)	$ _____
	2.	Traffic Control (5% of B.3)	$ _____
	3.	Materials (15% of C)	$ _____
	4.	Subcontracts (5% of E)	$ _____
	5.	Utility Direct Costs (5% of F)	$ _____
H.	Grand Total		$ _____

[1] Premiums on public liability and workers' compensation insurance, Social Security and unemployment insurance taxes.
[2] Equipment Costs (estimated or actual) based on Blue Book Equipment Rental Rates calculated in accordance with Section 13.7.3 of the Agreement.

SECTION III

The status of Substantial Completion is as follows:

- ❑ Unaffected by this Change Order Proposal
- ❑ Affected by (increasing) (decreasing) the date of Substantial Completion by _____calendar days.
- ❑ Affected by (increasing) (decreasing) the _____ Float by _____ calendar days.

The status of Final Acceptance is as follows:

- ❑ Unaffected by this Change Order Proposal
- ❑ Affected by (increasing) (decreasing) the date of Final Acceptance by _____calendar days.
- ❑ Affected by (increasing) (decreasing) the _____ Float by _____ calendar days.

Accordingly, the summary of the dates of Substantial Completion and Final Acceptance and Float are as follows:

1. Substantial Completion: _____
   (+ or - _____ days from base of _____ calendar days after NTP1)

2. Final Acceptance: _____
   (+ or - _____ days from base of _____ calendar days after NTP1)

3. Number of days of Project Float _____

Justification for Change Order with reference to the Agreement:

_____
_____
_____
_____
_____
_____

Change order required under Maintenance Agreement? Yes_____/No_____
If yes, state reason:

_____
_____
_____
_____
_____

The above three sections represent a true and complete summary of all aspects of this Request for Change Order.

This Request for Change Order includes all known and anticipated impacts or amounts, direct, indirect and consequential, which may be incurred as a result of the event, occurrence or matter giving rise to the proposed change.

If the foregoing Request for Change Order includes claims of Subcontractors or Suppliers, the undersigned have reviewed such claims and have determined in good faith that the claims are justified as to both entitlement and amount.

_____

Developer Authorized Representative

Date: _____

SECTION IV (Reviewed by Program Manager)

_____

Program Manager (Development Agreement)
Date_____

Comments:

_____
_____
_____
_____
_____

SECTION V (Reviewed by TxDOT Project Director)

_____
TxDOT Project Director

Date_____

Comments:

_____
_____
_____

SECTION VI (Reviewed by FHWA Project Representative, if applicable)

_____
FHWA Project Representative

Date

Comments:

_____
_____
_____

SECTION VII (Approval by TxDOT District Engineer and Deputy Director)

_____
TxDOT District Engineer **Date**

_____
TxDOT Deputy Director **Date**

Comments:

_____
_____
_____
_____
_____

EXHIBIT 17

INITIAL DESIGNATION OF AUTHORIZED REPRESENTATIVES

TxDOT Authorized Representative(s)

TxDOT's Executive Director, Chief Planning and Projects Officer and their designees

LtGen J.F. Weber, USMC (Ret)

Russell Zapalac

Ed Pensock

Robert Bielek

Developer's Authorized Representative(s)

Abrams-Kiewit Joint Venture
111 Congress Avenue, Suite 2400
Austin, TX 78701
Attn. Amadeo Saenz, Jr.
Telephone: (512) 322-4000
Facsimile: (512) 322-4018
E-mail: ASaenz@jdabrams.com

EXHIBIT 18

LIST OF REFERENCE INFORMATION DOCUMENTS (RID)

(Attached.)

Loop 375-Border Highway West Extension

TABLE OF CONTENTS – SUMMARY

RFQ Project Documents
July 26, 2013

RFQ Documents

- 1. Aesthetics
- 2. As-Builts
- 3. Drainage: Drainage Report
- 4. Drainage: IBWC
- 5. Environmental
- 6. Feasibility Studies
- 7. Geotechnical
- 8. Meetings: Risk Assessment Workshop
- 9. Meetings: SPD Coordination
- 10. Project Management: Primacy Waiver
- 11. Railroad
- 12. Right-Of-Way
- 13. Schematics
- 14. Traffic & Revenue Data
- 15. Utilities

Acronyms:

BHW	Border Highway West
CRRMA	Camino Real Regional Mobility Authority
EPEC	El Paso Electric Company
EPSBP	El Paso Sector Border Patrol
IBWC	US International Boundary & Water Commission

Loop 375-Border Highway West Extension

RFQ TABLE OF CONTENTS – DETAIL

Project Documents

- 1. Aesthetics
  - 1.a BHW Aesthetics to City of El Paso, 22 Oct 2012
  - 1.b Aesthetics Guidelines, 20 July 2012
  - 1.c Aesthetics Guidelines Appendix, 20 July 2012

- 2. As-Builts
  - 2.a Yandell Bridge As-Builts
    - Sheets 1-52, 1982
  - 2.b Existing ROW (1)
  - 2.c 1_200_SRR_Aerial_110_042710
  - 2.d 2_200_SRR_Aerial_110_042710
  - 2.e 3_200_SRR_Aerial_110_042710
  - 2.f 4_200_SRR_Aerial_110_042710
  - 2.g 5_200_SRR_Aerial_110_042710
  - 2.h Index Map

- 3. Drainage: Drainage Report
  - 3.a Appendix B – Schematic Layout Proposed Drainage Area Plans
    - Sheets1-15, 30 Jan 2013
  - 3.b Appendix E - Schematic Layout Proposed Storm Sewer Systems Plans
    - Sheets 1-13, 30 Jan 2013
  - 3.c Drainage Report
    - Figures 1-6, 30 Jan 2013
  - 3.d Drainage Report
    - Figures 7-12, 30 Jan 2013
  - 3.e Preliminary Engineering Drainage Report TMR10112
    - 100 percent Draft, pages 1-21,1 Feb 2013
  - 3.f Appendix F - Pond Typical Sections
    - Sheets 1-13, 31 Jan 2013
  - 3.g Appendix G - Existing Utilities
    - Sheets 1-13, 31 Jan 2013
  - 3.h Appendix A - Drainage Area Calculations
    - Sheets 1-10

- 3.i Appendix C – Inlet Calculations System
    - Pages 1-10
- 3.j Appendix D – Storm Sewer System
    - Pages 1-13
- 3.k Appendix H – Utility Infrastructure Impacted by the Alignment
    - Pages 1-6
- 3.l Appendix I – Utility Letters
    - Utility Letter Tracker 2 Pages, 2010&2012
    - Utility Letters, 44 ea, June 10, June 18, 2010

❖ 4. Drainage: IBWC

- 4.a Meeting Minutes IBWC on BHW outfalls licenses, 16 May 2013
- 4.b Informal BHW Txdot outfalls submittal letter to IBWC, 16 May 2013
    - 4 pages
- 4.c BHW outfalls Plans
    - Sheets 1-5 used at IBWC meeting on 5-16-2013
- 4.d BHW outfalls Plans
    - Sheets 6-10 used at IBWC meeting on 5-16-2013
- 4.e Drainage BHW outfalls Plans
    - Sheets 11-15 used at IBWC meeting on 5-16-2013
- 4.f BHW outfalls Plans
    - Sheets 16-21 used at IBWC meeting on 5-16-2013
- 4.g TxDOT Letter to USIBWC Requesting Licensing, 17 May 2013
- 4.h MCi Trasmittal Letter to USIBWC, 17 May 2013

❖ 5. Environmental

- 5.a Abbreviated State FEIS, 25 Apr 2013
- 5.b Record of Decision, 07 June 2013

❖ 6. Feasibility Studies

- 6.a Universe and Preliminary Alternatives, TOC + 7 pages
- 6.b Preliminary Alternatives Assessment Draft Report, 10 pgs, Nov 2007
- 6.c Preliminary Alternatives Report Draft report, 15 pgs, Nov 2007

❖ 7. Geotechnical

- 7.a Attachment 1, 1 page site map + 22 pages of boring logs, Oct-Nov 2010

❖ 8. Meetings: Risk Assessment Workshop

- 8.a Meeting Notes, Risk Assessment Workshop, 5 pages, 22-23 April 2013

❖ 9. Meetings: SPD Coordination

- 9.a El Paso Sector Border Patrol Towers Coordination Meeting Packet, 24 Jan 2013
- 9.b Meeting Notes, District-SPD Coordination Meeting, 2 pgs, 27 March 2013

❖ 10. Project Management: Primacy Waiver
- 10.a CCRMA Board Resolution, 2 pages, 8 May 2013
- 10.b CCRMA Primacy Waiver Letter, 3 pages, 9 May 2013

❖ 11. Railroad
- 11.a UPRR Pinch Points Exhibit, 31 May 2013

❖ 12. Right-Of-Way
- 12.1 Existing Right of Way
- 12.b Updated Parcel Maps, Sheets 1-9, 26 Apr 2013
- 12.c Right of Way Parcels from HALFF, 2 page spreadsheet, 26 April 2013

❖ 13. Schematics
- 13.a DGN UTLE EX 08 Existing Utilities Exhibit, Sheet 8 of 13, 14 Mar 2013
- 13.b DGN UTLE EX 09 Existing Utilities Exhibit, Sheet 9 of 13, 14 Mar 2013
- 13.c DGN UTLE EX 10 Existing Utilities Exhibit, Sheet 10 of 13, 14 Mar 2013
- 13.d DGN UTLE EX 11 Existing Utilities Exhibit, Sheet 11 of 13, 14 Mar 2013
- 13.e DGN UTLE EX 12 Existing Utilities Exhibit, Sheet 12 of 13, 14 Mar 2013
- 13.f DGN UTLE EX 13 Existing Utilities Exhibit, Sheet 13 of 13, 14 Mar 2013
- 13.g MFD Utilities
- 13.h TR-XSSHT1 Geometric Layout, Cross Sections, Roll 1 of 4, 31 Jan 2013
- 13.i TR-XSSHT2 Geometric Layout, Cross Sections, Roll 2 of 4, 31 Jan 2013
- 13.j TR-XSSHT3 Geometric Layout, Cross Sections, Roll 3 of 4, 31 Jan 2013
- 13.k TR-XSSHT4 Geometric Layout, Cross Sections, Roll 4 of 4, 31 Jan 2013
- 13.l Utilities A: Existing Utilities Exhibits, 14 Mar 2013
  - Index, One sheet
  - Exhibit, Sheets 1-6 of 13
- 13.m Utilities B: Existing Utilities Exhibits
  - Sheets 7-13 of 13, 4 Mar 2013
- 13.n Water-Sewer, 11 Apr 2013
- 13.o Utilities 1: Existing Utilities, 14 Mar 2013
  - Index and Sheets 1-13 of 13
- 13.p 24181G Schematic Typical Sections
  - Roll 3 of 4, 31 Jan 2013
- 13.q 24181G Schematic Frontage Road, Ramp and Surface Street Profiles
  - Roll 4 of 4, 31 Jan 2013

- 13.r Dgn Location Map: Existing Utilities, Index, 1 sheet, 14 Mar 2013
- 13.s DGN UTLE EX 01 Existing Utilities Exhibit, Sheet 1 of 13, 14 Mar 2013
- 13.t DGN UTLE EX 02 Existing Utilities Exhibit, Sheet 2 of 13, 14 Mar 2013
- 13.u DGN UTLE EX 03 Existing Utilities Exhibit, Sheet 3 of 13, 14 Mar 2013
- 13.v DGN UTLE EX 04 Existing Utilities Exhibit, Sheet 4 of 13, 14 Mar 2013
- 13.w DGN UTLE EX 05 Existing Utilities Exhibit, Sheet 5 of 13, 14 Mar 2013
- 13.x DGN UTLE EX 06 Existing Utilities Exhibit, Sheet 6 of 13, 14 Mar 2013
- 13.y DGN UTLE EX 07 Existing Utilities Exhibit, Sheet 7 of 13, 14 Mar 2013
- 13.z 24181G Schematic Sign 2, Racetrack Dr to

1 Mile East of Park Street, Roll 2 of 4, 31 Jan 2013

- 13.aa sp common [1], Common Symbols, one page
- 13.bb WA7 Design Criteria, Geometric Design Criteria, one page
- 13.cc 24181G Typicals
- 13.dd 24181G UPRR
- 13.ee 24181G VALN 200sc
- 13.ff MDG DRG Prop PONDS
- 13.gg 24181G-ROW
- 13.hh 24171G-ROW-SHAPES
- 13.ii 24181G-SCHEME
- 13.jj 24181G-SCHEME-Profiles
- 13.kk 24181G-CHEME-SIGN-1
- 13.ll 24181G-SCHEME-SIGN-2
- 13.mm 24181G-SCHEME-TYPS
- 13.nn 24181G-SHAD-ALT
- 13.oo 24181G-SHAD-PONDS
- 13.pp 24181G-TOWER-LOCATION
- 13.qq TR-XSXS-24181WA07
- 13.rr 24181G-PP-BHW: Roadway Plan & Profiles, Sheets 1-8, 8 Feb 2013
- 13.ss 24181G-SCHEME-SIGN-1:
- 13.tt Border Highway West-Plan Sheets-Halff, Sheets 1-17
  - Roadway Plan & Profiles, Sheets 1-8 of 8, 8 Feb 2013
  - Parcel Information, Sheets 1-9 of 9, 25 Feb 2013
- 13.uu 24181G-BORD-Schem-Large
- 13.vv 24181G-Bike-Route
- 13.ww 24181G-BILLBOARD-LOCATION
- 13.yy 24181G-Ctrl-Acc
- 13.zz 24181G-DEMO
- 13.aaa 24171G-GANTRIES
- 13.bbb 24181G-HALN
- 13.ccc 24181G-HALN-ALT
- 13.ddd 24181G-Illumination
- 13.eee 24181G-PARCELS-2012

- 13.fff 24181G-RAIL-ALL

- 14. Traffic and Revenue Data
  - 14.a Scenario 2 – 2035 - Sheets 1-5
  - 14.b Scenario 2 Toll – 2035 - Sheets 1-5
  - 14.c Scenario 3 – 2035 - Sheets 1-5
  - 14.d Scenario 4 – 2035 - Sheets 1-5
  - 14.e Interim Horizon Model Tolling Methodology Memo, 4 Jan 2012
  - 14.f Tech Memo – Toll Traffic and Revenue Study, 25 pages, 10 Oct 2012
  - 14.g El Paso - Travel Demand Modeling & Micro-simulation Summary
    - 25 pages, 13 Sep 2012
  - 14.h Final Forecasting Methodology Memo - Traffic Forecasting Methodology
    - 32 pages, 3 Aug 2012
  - 14.i Traffic Projections Methodology, 6 pages, 29 May 2008
  - 14.j No Build Traffic Projections - Year 2035, Sheets 1-10, 15 May 2008
  - 14.k Scenario 1 – 2035 - Sheets 1-5
  - 14.l Scenario 1 Toll – 2035 - Sheets 1-5
  - 14.m Toll Feasibility Level 1 Update 1 - Presentation to TxDOT SPD
    - 19 slides, 27 Mar 2013
  - 14.n Toll Concept Diagram -
    - Toll Gantry Locations, one sheet, 31 Jul 12, updated 12 Feb 13
    - Downtown Access Option E, one sheet, 19 Dec 12, updated 7 Jan 13
  - 14.o Traffic Data Memo, 7 pages, 21 Sep 2012
  - 14.p Enhanced Mission Model Tolling Methodology Technical Memo
    - 11 pages, DRAFT, 4 Jan 2012

- 15. Utilities
  - 15.a EPEC Alignment Exhibit Proposed Relocation, 1 sheet, 19 Mar 2013
  - 15.b EPEC Proposed Relocation CEMEX, 1 sheet, 19 Mar 2013
  - 15.c BPS Towers – Meeting Handout, 22 pages, 24 Jan 2013
  - 15.d Border Camera Views Reduced File, 16 pages

TABLE OF CONTENTS – SUMMARY
RFP Reference Information Documents (RID)
August 15, 2014

RFP RID

- 1. Right-of-Way
- 2. Aerial LiDAR
- 3. Photogrammetry
- 4. Survey
- 5. Third Party Agreements
- 6. Drainage
- 7. Railroad
- 8. Geotechnical
- 9. Structural
- 10. HazMat
- 11. Utilities
- 12. Schematic CADD
- 13. Schematic PDF
- 14. I-10 C-D Project Plans
- 15. Right-of-Entry
- 16. Traffic
- 17. As-Builts
- 18. Post-100% Procurement Schematics CADD
- 19. Post-100% Procurement Schematics PDF
- 20. ITS

- 21. Traffic Signals
- 22. Customs & Border Patrol
- 23. Environmental
- 24. Design Standards
- 25. Bicycle/Pedestrian Planning
- 26. Pavement
- 27. ASARCO

Acronyms:

BHW	Border Highway West
CBP	Customs and Border Patrol
IBWC	US International Boundary & Water Commission
SHPO	Texas State Historic Preservation Officer

Loop 375-Border Highway West Extension
Project Documents

RFP TABLE OF CONTENTS - DETAIL

- 1. Right-of-Way
  - 1.a Preliminary ROW, July 25, 2013
  - 1.b DRAFT ROW Mapping Plans - PDF – east end, December 10, 2013 (added 12/15/2013)
  - 1.c Parcel Status Summary, January 31, 2014 (added 01/31/2014)
  - 1.d Parcel Status Summary, February 27, 2014 (added 02/28/2014)
  - 1.e ROW Map Sheets, Revised January 27, 2014 (added 03/08/2014)
  - 1.f DRAFT Parcel Descriptions for Parcels 2-7, 9-14 & 16-19 (added 03/08/2014)
  - 1.g Parcel Status Summary, March 12, 2014 (added 03/12/2014)
  - 1.h Parcel Status Summary, April 30, 2014 (added 05/01/2014)
  - 1.i Parcel Status Summary, May 30, 2014 (added 06/05/2014)
  - 1.j Parcel Status Summary, August 1, 2014 (added 08/01/2014)

- 2. Aerial LiDAR
  - 2.a LP375, Preliminary Catenaries
  - 2.b LP375, Preliminary DTM
  - 2.c LP375, Preliminary DTM 3D, August 6, 2013
  - 2.d LP375, Preliminary DTM 3D, September 5, 2013
  - ~~2.e LP375, Preliminary DTM.TIN~~ (erroneous entry on Table of Contents)
  - 2.e LP375, Preliminary TIN, August 6, 2013
  - 2.f LP375, Preliminary Planimetric 2D, August 6, 2013

- 3. Photogrammetry
  - 3.a A_01
  - 3.b A_01
  - 3.c A_02
  - 3.d A_02
  - 3.e B_02

- 3.f B_02
- 3.g B_03
- 3.h B_03
- 3.i C_02
- 3.j C_02
- 3.k C_03
- 3.l C_03
- 3.m C_04
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- 3.o D_03
- 3.p D_03
- 3.q D_04
- 3.r D_04
- 3.s D_05
- 3.t D_05
- 3.u E_05
- 3.v E_05
- 3.w E_06
- 3.x E_06
- 3.y F_05
- 3.z F_05
- 3.aa F_6
- 3.bb F_06
- 3.cc G_05
- 3.dd G_05
- 3.ee G_06
- 3.ff G_06
- 3.gg H_06
- 3.hh H_06
- 3.ii I_06
- 3.jj I_06
- 3.kk I_07
- 3.ll I_07
- 3.mm J_07
- 3.nn J_07
- 3.oo K_07
- 3.pp K_07
- 3.qq K_08
- 3.rr K_08
- 3.ss L_08
- 3.tt L_08

- 3.uu L_09
- 3.vv L_09
- 3.ww L_15
- 3.xx L_15
- 3.yy L_16
- 3.zz L_16
- 3.aaa L_17
- 3.bbb L_17
- 3.ccc M_08
- 3.ddd M_08
- 3.eee M_09
- 3.fff M_09
- 3.ggg M_10
- 3.hhh M_10
- 3.iii M_13
- 3.jjj M_13
- 3.kkk M_14
- 3.lll M_14
- 3.mmmM_15
- 3.nnn M_15
- 3.ooo M_16
- 3.ppp M_16
- 3.qqq N_09
- 3.rrr N_09
- 3.sss N_10
- 3.ttt N_10
- 3.uuu N_11
- 3.vvv N_11
- 3.www N_12
- 3.xxx N_12
- 3.yyy N_15
- 3.zzz N_15
- 3.aaaa O_10
- 3.bbbb O_10
- 3.cccc O_11
- 3.dddd O_11
- 3.eeee O_12
- 3.ffff O_12
- 3.gggg O_13
- 3.hhhh O_13
- 3.iiii O_14
- 3.jjjj O_14

- 3.kkkk O_15
- 3.llll O_15
- 3.mmmm Ortho Index .dgn
- 3.nnnn Ortho Index .dxf

❖ 4. Survey
- 4.a Survey Compliance review form

❖ 5. Third Party Agreements
- 5.a Municipal Separate Storm Sewer System (MS4) Phase I, March 2011
- 5.b Resolution between City of El Paso Police Department and TxDOT, September 25, 2012
- 5.c Title Sht Agreements
- 5.d CRRMA-TxDOT MOU (added 3/11/2014)
- 5.e USIBWC Approval May 20, 2014 (added 05/30/2014)

❖ 6. Drainage
- 6.a Catch Basin Drainage Areas
- 6.b Hydraulic (Catch Basin) Computations
- 6.c Hydraulic (Ponding Width) Computations
- 6.d Hydraulic Computations
- 6.e Hydrologic Computations
- 6.f Drainage Plan, Figure 1
- 6.g Drainage Plan, Figure 2
- 6.h Drainage Plan, Figure 3
- 6.i Drainage Plan, Figure 4
- 6.j Drainage Plan, Figure 5
- 6.k Drainage Plan, Figure 6
- 6.l Off-site Drainage Area Map, Segments A & B
- 6.m On-site Drainage Drainage Area Map, 22 Sheets
- 6.n Ponding Area Layouts, 13 Sheets
- 6.o Storm Sewer Profiles, 30 Sheets
- 6.p LP 375 BWH Drainage Pond Comparison (added 12/15/2013)
- 6.q IBWC DRAFT Outfall License Package.zip (added 12/16/2013)(updated 12/18/2013)
- 6.r IBWC NEMEXAS Levee (90 percent), Feb 2013 (added 12/16/2013)
- 6.s IBWC NEMEXAS Levee (90 percent), Feb 2013 – GIS (added 12/16/2013)
- 6.t IBWC NEMEXAS Levee (90 percent), Feb 2013 – GIS Imagery 1 of 2 (added 12/17/2013)
- 6.u IBWC NEMEXAS Levee (90 percent), Feb 2013 – GIS Imagery 2 of 2 (added 12/17/2013)
- 6.v IBWC – URS NEMEXAS Levee Drainage Design and CADD, April 2013 (added 12/17/2013)

- 6.w IBWC Working Models for Riverside Column Analysis (added 12/17/2013)
- 6.x IBWC Hydraulic Analysis Report with Comment Responses – Appendices A-B (added 12/17/2013)
- 6.y IBWC Hydraulic Analysis Report with Comment Responses – Appendix C1-C14 (added 12/17/2013)
- 6.z IBWC Hydraulic Analysis Report with Comment Responses – Appendix C15 (1 of 2) (added 12/17/2013)
- 6.aa IBWC Hydraulic Analysis Report with Comment Responses – Appendix C15 (2 of 2) and C17 (added 12/17/2013)
- 6.bb Geopak Drainage (added 12/17/2013)
- 6.cc TxDOT Letter and Revised Technical Memorandum re: PA-A1, PA-A2, PA-A3, February 19, 2014 (added 05/30/2014).

❖ 7. Railroad

- 7.a BNSF Subsurface Utility Engineering Plans, Racetrack to Piedras, October 28, 2013
- 7.b UPRR Subsurface Utility Engineering Plans, Racetrack to Piedras, October 28, 2013
- 7.c Railroad-approved design plans, December 18, 2013 (added 02/18/2014)
- 7.d Railroad-approved design plans – 60% Modified, March 14, 2014 (added 03/17/2014)
- 7.e UPRR-ML4-BNSF Crossover Strip Map - 60% Modified, March 14, 2014 (added 03/17/2014)
- 7.f BNSF Gate Traffic Counts, Intermodal Facility, Oct 2013 – Feb 2014 (added 04/04/2014)
- 7.g Railroad-approved design plans – 60% Modified, July 17, 2014 (added 08/15/2014)

❖ 8. Geotechnical

- 8.a BHW Preliminary Report, October 30, 2013 (updated SharePoint title 02/20/2014)
- 8.b BHW Preliminary Report Appendix A1-1: Bridge WinCore Bore Log Data (updated SharePoint title 02/20/2014)
- 8.c BHW Preliminary Report Appendix A1-2; A1-3; A2-1: Retaining Wall Wincore Bore Log Data; Pond WinCore Bore Log Data; Bridge Bore Log Data (updated SharePoint title 02/20/2014)
- 8.d BHW Preliminary Report Appendix A2-1(cont.); (updated SharePoint title 02/20/2014)
- 8.e BHW Preliminary Report Appendix A2-2; A2-3: Retaining Wall Bore Log Data; Pond Bore Log Data (updated SharePoint title 02/20/2014)
- 8.f BHW Preliminary Report Appendix B1: WinCore Capacity Curves (updated SharePoint title 02/20/2014)
- 8.g BHW Preliminary Report Appendix B1(cont.); WinCore Capacity Curves (updated SharePoint title 02/20/2014)

- 8.h BHW Preliminary Report Appendix B1 (cont.); WinCore Capacity Curves (updated SharePoint title 02/20/2014)
- 8.i BHW Preliminary Report Appendix B2; Appendix C: Foundation Capacity Tables; University of Texas, Bureau of Economic Geology Map and Map of Borehole Locations (updated SharePoint title 02/20/2014)
- 8.j BHW Preliminary Report Appendix D: Particle-Size Analysis Results (updated SharePoint title 02/20/2014)
- 8.k WinCore clg files.zip, December 11, 2013 (added 12/15/2013)
- 8.l Boring Locations & Right-of-Entry Status Map, December 4, 2013 (added 01/14/2014)
- 8.m B39 Field Log, January 9, 2014 (added 01/14/2014)
- 8.n B37 & B38 Field Logs, January 10-11, 2014 (added 01/14/2014)
- 8.o B35 Field Log (added 01/16/2014)
- 8.p Bridge Bore Logs (2) .clg file (added 01/16/2014)
- 8.q B42 & B43 Field Logs, December 3, 2013 (added 02/04/2014)
- 8.r B42, B43, R27, R28, R49, R58 Field Logs, September 9 – December 7, 2013 (added 02/04/2014)
- 8.s B31 Field Log, January 15, 2014 (added 02/04/2014)
- 8.t B33, B39, CV-1 Field Log, January 9-22, 2014 (added 02/04/2014)
- 8.u R48, R51, R52 Field Logs, December 6-7, 2013 (added 02/04/2014)
- 8.v Logged Borings, February 3, 2014 (added 02/04/2014)
- 8.w B23, R30 Field Logs, February 17-18, 2014 (added 02/19/2014)
- 8.x R7, R9, R15 Field Logs, February 19-20, 2014 (added 02/21/2014)
- 8.y R9 Update, R12, R23 Field Logs February 19-21, 2014 (added 02/24/2014)
- 8.z Bridge Bore Logs (2) .clg file (added 02/24/2014)
- 8.aa Retaining Wall Bore Logs (3) .clg file (added 02/24/2014)
- 8.bb Updated Appendix “D” – Particle Size Analysis Results, October 28, 2013 (added 02/24/2014)
- 8.cc Supplemental to Appendices: R7, R35, R36, P1, P14, P16, P17, P18, P19 Field Logs, October 23-30, 2014 (added 02/24/2014)
- 8.dd B27-P11 Field Log, February 22, 2014 (added 02/25/2014)
- 8.ee Boring Locations & Right-of-Entry Status Map, February 14, 2014 (added 02/25/2014)
- 8.ff B22, B25/R1, R4, R13, R24 Field Logs, February 15 – March 1, 2014 (added 03/03/2014)
- 8.gg Bridge Bore Logs (2) .clg file (added 03/03/2014)
- 8.hh Retaining Wall Bore Logs (3) . clg file (added 03/03/2014)
- 8.ii B30/R10, R14, R22, R33 Field Logs February 19 – March 4, 2014 (added 03/05/2014)
- 8.jj B3, B26, B44/CV4, R38, RW, RW5, RW11, RW17, RW19, RW21 Drilling Logs March 5-9, 2014 (added 03/13/2014)
- 8.kk BHW Final WinCore.zip June 17, 2014 (added 07/15/2014)
- 8.ll BHW FINAL Geotech Report.zip June 5, 2014 (added 07/15/2014)

- 9. Structural
  - 9.a Preliminary Bridge Layouts & Typical Sections, October 30, 2013
  - 9.b Preliminary Coles-Paisano Direct Connector Bridge Layout & Typical Sections, October 30, 2013
  - 9.c Preliminary Coles-Paisano EB Ramp Bridge Layout & Typical Sections, October 30, 2013
  - 9.d Preliminary Coles-Paisano WB Ramp Bridge Layout & Typical Sections, October 30, 2013
  - 9.e Preliminary Exhibit "A," October 21, 2013
  - 9.f BRINSAP Reports (Cotton Street, El Paso Street, US 85, LP 375) (added 01/08/2014)

- 10. HazMat
  - 10.a Draft Phase I Environmental Site Assessment, ASARCO Parcel, October 2010
  - 10.b Draft Phase I Environmental Site Assessment, CEMEX Parcel, July 22, 2010
  - 10.c Accutest Lab Results T78279, ASARCO Parcel, June 23, 2011
  - 10.d Accutest Lab Results T78280, ASARCO Parcel, June 23, 2011
  - 10.e Final Limited Phase II Environmental Site Assessment, ASARCO Parcel, September 2011
  - 10.f Banks Regulatory Database Report, NW Section, January 15, 2013
  - 10.g Banks Regulatory Database Report, SE Section, January 15, 2013
  - 10.h GeoSearch Chain-of-Title Review, CEMEX Parcel, July 2010
  - 10.i Figure 4-2, Industrial Waste Disposal Area, CEMEX Parcel, July 2010
  - 10.j Industrial Solid Waste Disposal Site Deed Recordation, CEMEX Parcel, June 2, 1986

- 11. Utilities
  - SUE October 28, 2013
    - 11.a Subsurface Utility Engineering (Level B) Plans, Racetrack to Piedras, October 28, 2013
    - 11.b BHW SUE .dgn
    - 11.c suex .rsc
    - 11.d SUE (Level B) Plans, Title Sheet, October 28, 2013
    - 11.e SUE (Level B) Plans, Sheet 1 of 32, October 28, 2013
    - 11.f SUE (Level B) Plans, Sheet 2 of 32, October 28, 2013
    - 11.g SUE (Level B) Plans, Sheet 3 of 32, October 28, 2013
    - 11.h SUE (Level B) Plans, Sheet 4 of 32, October 28, 2013
    - 11.i SUE (Level B) Plans, Sheet 5 of 32, October 28, 2013
    - 11.j SUE (Level B) Plans, Sheet 6 of 32, October 28, 2013
    - 11.k SUE (Level B) Plans, Sheet 7 of 32, October 28, 2013
    - 11.l SUE (Level B) Plans, Sheet 8 of 32, October 28, 2013

- 11.m SUE (Level B) Plans, Sheet 8A of 32, October 28, 2013
- 11.n SUE (Level B) Plans, Sheet 9 of 32, October 28, 2013
- 11.o SUE (Level B) Plans, Sheet 9A of 32, October 28, 2013
- 11.p SUE (Level B) Plans, Sheet 10 of 32, October 28, 2013
- 11.q SUE (Level B) Plans, Sheet 11 of 32, October 28, 2013
- 11.r SUE (Level B) Plans, Sheet 12 of 32, October 28, 2013
- 11.s SUE (Level B) Plans, Sheet 13 of 32, October 28, 2013
- 11.t SUE (Level B) Plans, Sheet 14 of 32, October 28, 2013
- 11.u SUE (Level B) Plans, Sheet 15 of 32, October 28, 2013
- 11.v SUE (Level B) Plans, Sheet 16 of 32, October 28, 2013
- 11.w SUE (Level B) Plans, Sheet 16A of 32, October 28, 2013
- 11.x SUE (Level B) Plans, Sheet 17 of 32, October 28, 2013
- 11.y SUE (Level B) Plans, Sheet 18 of 32, October 28, 2013
- 11.z SUE (Level B) Plans, Sheet 19 of 32, October 28, 2013
- 11.aa SUE (Level B) Plans, Sheet 19A of 32, October 28, 2013
- 11.bb SUE (Level B) Plans, Sheet 20 of 32, October 28, 2013
- 11.cc SUE (Level B) Plans, Sheet 21 of 32, October 28, 2013
- 11.dd SUE (Level B) Plans, Sheet 22 of 32, October 28, 2013
- 11.ee SUE (Level B) Plans, Sheet 23 of 32, October 28, 2013
- 11.ff SUE (Level B) Plans, Sheet 24 of 32, October 28, 2013
- 11.gg SUE (Level B) Plans, Sheet 25 of 32, October 28, 2013
- 11.gg SUE (Level B) Plans, Sheet 26 of 32, October 28, 2013
- 11.ii SUE (Level B) Plans, Sheet 27 of 32, October 28, 2013
- 11.jj SUE (Level B) Plans, Sheet 28 of 32, October 28, 2013
- 11.kk SUE (Level B) Plans, Sheet 29 of 32, October 28, 2013
- 11.ll SUE (Level B) Plans, Sheet 30 of 32, October 28, 2013
- 11.mm SUE (Level B) Plans, Sheet 31 of 32, October 28, 2013
- 11.nn SUE (Level B) Plans, Sheet 32 of 32, October 28, 2013

- SUE December 6, 2013
  - 11.oo SUE (Level A) Test Hole Data, October 8, 2013
  - 11.pp SUE (Level B) Plans, Title Sheet, November 14, 2013
  - 11.qq SUE (Level B) Plans, Sheet 1 of 32, November 14, 2013
  - 11.rr SUE (Level B) Plans, Sheet 2 of 32, November 14, 2013
  - 11.ss SUE (Level B) Plans, Sheet 3 of 32, November 14, 2013
  - 11.tt SUE (Level B) Plans, Sheet 4 of 32, November 14, 2013
  - 11.uu SUE (Level B) Plans, Sheet 5 of 32, November 14, 2013
  - 11.vv SUE (Level B) Plans, Sheet 6 of 32, November 14, 2013
  - 11.ww SUE (Level B) Plans, Sheet 7 of 32, November 14, 2013
  - 11.xx SUE (Level B) Plans, Sheet 8 of 32, November 14, 2013
  - 11.yy SUE (Level B) Plans, Sheet 8A of 32, November 14, 2013
  - 11.zz SUE (Level B) Plans, Sheet 9 of 32, November 14, 2013
  - 11.aaa SUE (Level B) Plans, Sheet 9A of 32, November 14, 2013
  - 11.bbb SUE (Level B) Plans, Sheet 10 of 32, November 14, 2013

- 11.ccc SUE (Level B) Plans, Sheet 11 of 32, November 14, 2013
- 11.ddd SUE (Level B) Plans, Sheet 12 of 32, November 14, 2013
- 11.eee SUE (Level B) Plans, Sheet 13 of 32, November 14, 2013
- 11.fff SUE (Level B) Plans, Sheet 14 of 32, November 14, 2013
- 11.ggg SUE (Level B) Plans, Sheet 15 of 32, November 14, 2013
- 11.hhh SUE (Level B) Plans, Sheet 16 of 32, November 14, 2013
- 11.iii SUE (Level B) Plans, Sheet 16A of 32, November 14, 2013
- 11.jjj SUE (Level B) Plans, Sheet 17 of 32, November 14, 2013
- 11.kkk SUE (Level B) Plans, Sheet 18 of 32, November 14, 2013
- 11.lll SUE (Level B) Plans, Sheet 19 of 32, November 14, 2013
- 11.mmm SUE (Level B) Plans, Sheet 19A of 32, November 14, 2013
- 11.nnn SUE (Level B) Plans, Sheet 20 of 32, November 14, 2013
- 11.ooo SUE (Level B) Plans, Sheet 21 of 32, November 14, 2013
- 11.ppp SUE (Level B) Plans, Sheet 22 of 32, November 14, 2013
- 11.qqq SUE (Level B) Plans, Sheet 23 of 32, November 14, 2013
- 11.rrr SUE (Level B) Plans, Sheet 24 of 32, November 14, 2013
- 11.sss SUE (Level B) Plans, Sheet 25 of 32, November 14, 2013
- 11.ttt SUE (Level B) Plans, Sheet 26 of 32, November 14, 2013
- 11.uuu SUE (Level B) Plans, Sheet 27 of 32, November 14, 2013
- 11.vvv SUE (Level B) Plans, Sheet 28 of 32, November 14, 2013
- 11.www SUE (Level B) Plans, Sheet 29 of 32, November 14, 2013
- 11.xxx SUE (Level B) Plans, Sheet 30 of 32, November 14, 2013
- 11.yyy SUE (Level B) Plans, Sheet 31 of 32, November 14, 2013
- 11.zzz SUE (Level B) Plans, Sheet 32 of 32, November 14, 2013

- 11.aaaa Utility Strip Maps – Base files.zip (added 12/15/2013)
- 11.bbbb Utility Strip Maps – Sheet files.zip (added 12/15/2013)
- 11.cccc Utility Strip Maps – PDF & DGN.zip, sealed December 13, 2013 (added 01/14/2013)
- 11.dddd Sign-in sheet; Utility Meeting, January 14, 2014 (added January 24, 2014)
- 11.eeee Presentation-LP 375 BHW Utility Kickoff Meeting, January 14, 2014 (added January 24, 2014)
- 11.ffff Transtelco Utility Paths.zip (Doniphan Park-I10-Mesa Hills) & (I-10 Crossings) (added January 30, 2014)
- 11.gggg Time-Warner Cable Utility Paths.zip (dwf & pdf files)(added January 30, 2014)
- 11.hhhh El Paso Electric Company Transmission Line Relocation.zip (dgn, pdf & dwg files) (added February 4, 2014)
- 11.iiii SUE mark-up for Verizon and MCI assets (added 02/19/2014)
- 11.jjjj Updated SUE 2D, March 24, 2014 ~~(added 04/02/2014)~~ (added 04/04/2014)

❖ 12. Schematic CADD
- 12.a CADD.zip, October 30, 2013

- 13. Schematic PDF
  - 13.a Sign Schematic (Layout) 1 of 4, September 11, 2013 (updated 12/3/2013)
  - 13.b Sign Schematic (Layout) 2 of 4, September 11, 2013 (updated 12/3/2013)
  - 13.c Sign Schematic (Typical Sections) 3 of 4, September 11, 2013 (updated 12/3/2013)
  - 13.d Sign Schematic (Profiles) 4 of 4, September 11, 2013 (updated 12/3/2013)
  - 13.e Sign Schematic (Simple Layout), October 3, 2013 (updated 12/3/2013)
  - 13.f SUE Schematic, October 2, 2013 (updated 12/3/2013)
  - 13.g Cross Sections 1 of 4, September 6, 2013 (updated 12/3/2013)
  - 13.h Cross Sections 2 of 4, September 6, 2013 (updated 12/3/2013)
  - 13.i Cross Sections 3 of 4, September 6, 2013 (updated 12/3/2013)
  - 13.j Cross Sections 4 of 4, September 6, 2013 (updated 12/3/2013)

- 14. I-10 C-D Project Plans
  - 14.a I-10 C-D Project Plans – PDF.zip (added 12/15/2013) (updated 12/20/2013)
  - 14.b I-10 C-D Project Plans – CADD.zip (added 12/15/2013)

- 15. Right-of-Entry Documents
  - 15.a Right-of-Entry Documents (Signed).zip (added 12/15/2013)
  - 15.b Right-of-Entry Documents (Unsigned).zip (added 12/15/2013)
  - 15.c Right-of-Entry Letters, Signed and sent out by TxDOT, June 18, 2013 (added 12/16/2013)

- 16. Traffic
  - 16.a Executive Center SPUI Synchro files, December 16, 2013 (added 12/17/2013)

- 17. As-Builts
  - 17.a As-built files (US 80A, US 85, LP 375).zip (added 12/19/2013) (updated 12/20/2013)
  - 17.b As-built files (Spur 1966).zip (added 12/20/2013)
  - 17.c As-built files (Cotton Street, Spur 1, LP 375).zip (added 01/08/2014)(updated for LP 375, 02/19/2014)
  - 17.d Cesar Chavez Managed Lanes Bid Plans & Major Change Orders .zip (added 02/13/2014)
  - 17.e Cesar Chavez Toll Integration Plans, August 5, 2013 (added 03/06/2014)
  - 17.f 2013-04-05 (URS – NEXEXAS Levee Drainage Design).zip (added 03/12/2014)
  - 17.g 2013-04-09 (URS – NEXEXAS Levee Design CADD).zip (added 03/12/2014)

- 17.h American Canal As-Builts.zip (added 03/12/2014)
- 17.i American Canal Rechannelization.zip (added 03/12/2014)
- 17.j1 IBWC RGACE as builts (Franklin Canal).zip (added 03/12/2014)

❖ 18. Post-100% Procurement Schematics - CADD
- 18.a Post-100% Procurement Schematics-CADD.zip, December 18, 2013 (added 12/20/2013)
- 18.b REVISED Post-100% Procurement Schematics-CADD.zip, January 30, 2014 (added 01/31/2014)

❖ 19. Post-100% Procurement Schematics – PDF
- 19.a Post-100% Procurement Schematics-PDF.zip, December 18, 2013 (added 12/20/2013)
- 19.b REVISED Post-100% Procurement Schematics-PDF.zip, January 30, 2014 (added 01/31/2014)

❖ 20. ITS
- 20.a ITS Specifications (added 12/20/2013)
- 20.b ITS Specifications, Redlines, February 28, 2014 (added 03/04/2014)
- 20.c ITS Specifications, Revised for 02/28/14 redlines, March 4, 2014 (added 03/04/2014)

❖ 21. Traffic Signals
- 21.a VIVDS Specifications (added 12/20/2013)

❖ 22. Customs and Border Protection
- 22.a CBP Tower Lights & Cameras Exhibit (added 01/14/2014)
- 22.b CBP Tower relocation GPS coordinates (added 02/14/2014)
- 22.c CBP Tower relocation GPS coordinates (revised) (added 03/12/2014)
- 22.d CBP Rules of Engagement (added 03/12/2014)

❖ 23. Environmental
- 23.a Hazardous Materials Technical Report, April 2013 (added 02/04/2014)
- 23.b Wetland Delineation Technical Report, April 2013 (added 02/04/2014)
- 23.c Traffic Noise Technical Report, April 2013 (added 02/04/2014)
- 23.d Historic Resources Survey Report, August 2012 (added 02/04/2014)
- 23.e DRAFT Interim Report for Intensive Archaeological Survey, December 2012 (added 02/04/2014)
- 23.f Appendices A-C to Final Environmental Impact Statement, (added 02/04/2014)
- 23.g Memorandum Of Agreement (TxDOT/IBWC/SHPO) - Chihuahita District, January 17, 2014 (added 02/11/2014)
- 23.h BHW Sun Metro Reevaluation Consultation Checklist (added 02/11/2014)

- 23.i Final Complete BHW Sun Metro Re-evaluation Consultation Checklist Issued by TxDOT on January 30, 2014 (added TxDOT issuance info 08/15/2014) ~~(added 03/13/2014)~~
- 23.j Rescue Mission Documents (added 03/20/2014)
- 23.k Fully Executed – Memorandum of Agreement (TxDOT/IBWC/SHPO) – Chihuahita District, March 31, 2014 (added 04/01/2014)
- 23.l Reevaluation Consultation Checklist for BHW UPRR Track Relocation, Acquisition of Remainders, and Relocations of U.S. Customs and Border Protection Equipment, approved on August 15, 2014 (added and then corrected on 08/15/2014)

❖ 24. Design Standards
- 24.a City of El Paso Design Standards for Construction, June 3, 2008 (added 02/04/2014)
- 24.b ~~TxDOT~~
- ~~El Paso District Drainage Standards.zip~~ TxDOT El Paso District Drainage Details.zip (added 02/13/2014)(revised name 02/19/2014)
- 24.c ~~TxDOT El Paso District Roadway Standards.zip~~ TxDOT El Paso District Roadway Details.zip (added 02/13/2014)(revised name 02/19/2014)
- 24.d TxDOT El Paso District Traffic and ITS Details.zip (added 02/28/2014)
- 24.e TxDOT El Paso District Traffic and ITS Details – CPM(1)-14 Draft (added 03/04/2014)

❖ 25. Bicycle/Pedestrian Planning
- 25.a City of El Paso Bikeways Map, March 1999 (added 02/05/2014)
- 25.b Metropolitan Planning Organization Regional Bikeways Plan Study, July 17, 1997 (added 02/05/2014)

❖ 26. Pavement
- 26.a BHW – LP 375 & US 85 PMIS, February 25, 2014 (added 02/25/2014)

❖ 27. ASARCO
- 27.a ASARCO Information, March 18, 2014 (added 03/18/2014)
- 27.b LP 375 Contractor Access & Laydown figure (added 03/18/2014)
- 27.c Soil Sampling Information, March 26, 2014 (added 03/26/2014)

EXHIBIT 19

DISPUTES BOARD AGREEMENT

THIS DISPUTES BOARD AGREEMENT (this "**Agreement**") is made and entered into this August 22, 2014, (the "**Effective Date**") by and between the Texas Department of Transportation ("**TxDOT**"), and Abrams-Kiewit, a Texas joint venture composed of J.D. Abrams, L.P. and Kiewit Infrastructure South Co. ("**Developer**"). TxDOT and Developer are sometimes referred to individually herein as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. TxDOT and Developer are parties to that certain Development Agreement, for the Loop 375 – Border Highway West Extension Project, dated as of the Effective Date (the "**Development Agreement**") and the other Contract Documents, all of which collectively comprise a comprehensive development agreement under Chapter 223 of the Code.

B. Section 19.3 of the Development Agreement, among other things, provides for the establishment and operation of a disputes review board (each such board being referred to herein as the "**Disputes Board**") to resolve each Dispute if, as and when, a Dispute arises under the Contract Documents.

NOW THEREFORE, in consideration of the terms, conditions, covenants and agreements contained herein and in the Contract Documents, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties hereby agree as follows:

Section 1. Definitions and References.

1.1 Definitions. All capitalized terms used in this Agreement and not defined or modified herein shall have the same meaning as set forth in the Contract Documents.

1.2 Reference Section of Development Agreement. Section 19.3 of the Development Agreement, which, among other things, discusses the Disputes Board's role in resolving Disputes, is incorporated herein by reference.

1.3 Section References. Unless expressly indicated otherwise, all references in this Agreement to a "Section" mean the Section contained in this Agreement.

Section 2. Purpose and Role of the Disputes Board; Binding Disputes Board Decision.

The sole purpose of the Disputes Board is to fairly and impartially consider all Disputes brought to it and to resolve such Disputes in a Disputes Board Decision (as defined in Section 5.5 below). The Disputes Board is not a supervisory, advisory, or

facilitating body and has no role other than as expressly described in this Agreement and in Section 19.3 of the Development Agreement. Notwithstanding that each Disputes Board Member will have been engaged by a Party under a Disputes Board Member Joinder Agreement (as defined in Section 3.1.2 below), none of the Disputes Board Members shall consider themselves an appointee, representative, agent or advocate of the Party who engaged him or her. Disputes Board Members are charged with discharging their responsibilities hereunder in an impartial, objective, independent and professional manner without regard to the particular interests of either Party. Upon completion of the remainder of procedures required under the Code and the DRP Rules, each Disputes Board Decision shall be final, conclusive, binding upon and enforceable against the Parties.

Section 3. Selection, Replacement and Removal of Disputes Board Members and Candidates.

3.1 Selection of Disputes Board Member Candidates and Disputes Board Members.

3.1.1 At all times, each Party shall endeavor to maintain a list of five candidates who satisfy the Disputes Board Member Qualifications (as defined in Section 4 below) and have been approved or deemed approved by the other Party to serve on the Disputes Board (each such list being a **"Disputes Board Member Candidates List"**). As of the Effective Date, (a) TxDOT accepts and consents to the final Disputes Board Member Candidates List of Developer previously approved or deemed approved by TxDOT on or before the Effective Date and (b) Developer accepts and consents to the Disputes Board Member Candidates List of TxDOT previously approved or deemed approved by Developer on or before the Effective Date.

3.1.2 If at any time, pursuant to Section 19.3.4.2 of the Development Agreement, a Dispute is referred by TxDOT or Developer to the Disputes Board for resolution, each Party shall, within 15 days after notice of such referral is given or received (or within 7 days after notice of a Fast-Track Dispute is given or received), appoint and engage one of the preapproved candidates on its Disputes Board Member Candidates List to serve on the Disputes Board. The Disputes Board empanelled to resolve each Dispute shall consist of three individuals, except as otherwise provided for resolution of Small Claims under Section 5.3.3 or as the Parties may agree pursuant to Section 3.1.4 below, which shall consist of (a) one Disputes Board Member selected by TxDOT, (b) one Disputes Board Member selected by Developer and (c) a third individual selected pursuant to Section 3.1.3 below. To set forth the terms and conditions of such appointment and engagement, each Party and its appointed Disputes Board Member shall enter into a Disputes Board Member Joinder Agreement in the form attached hereto as Attachment 1 (each such agreement, upon execution, being referred to herein as a "**Disputes Board Member Joinder Agreement**" and incorporated herein by reference).

3.1.3 The two Disputes Board Members appointed to the Disputes Board shall, as their first duty following appointment shall, within 15 days after their

appointment (or within 7 days after their appointment, if the Dispute for resolution by the Disputes Board is a Fast-Track Dispute), select the third Disputes Board Member (the **"Disputes Board Chair"**) from among the remaining candidates that appear on the Parties' Disputes Board Member Candidate Lists. If the two Disputes Board Members appointed by Developer and TxDOT are unable to reach agreement on their selection of the Disputes Board Chair within such time period, then either Developer or TxDOT or both shall request that the Chief Administrative Judge of the Travis County District Courts select the Disputes Board Chair from among the remaining candidates that appear on the Parties' Disputes Board Member Candidate Lists. Both Parties waive all rights to appeal the decision of the Chief Administrative Judge, except if the individual designated by such judge to serve as the Disputes Board Chair is not among the qualified and approved candidates remaining on the Parties' Disputes Board Member Candidate Lists. Within 15 days after the selection of the Disputes Board Chair by the two appointed Disputes Board Members or the Chief Administrative Judge (or within 7 days after such selection if the Dispute is a Fast-Track Dispute), the Party on whose list the Disputes Board Chair appears and the individual selected to serve as the Disputes Board Chair on the Disputes Board shall enter into a Disputes Board Member Joinder Agreement.

3.1.4 The Parties may mutually agree at any time prior to the Dispute Board's issuance of a Disputes Board Decision that the relevant Dispute shall be resolved by the Disputes Board Chair alone rather than by the three member Disputes Board, and any such agreement shall be irrevocable upon issuance of the joint written directive next described. If the Parties so agree, they shall issue a joint written directive to the Disputes Board (or to the two appointed Disputes Board Members or the Chief Administrative Judge of the Travis County District Courts, if such Disputes Board Members or Chief Administrative Judge are or is then in the process of selecting the Disputes Board Chair pursuant to Section 3.1.3 above) stating their mutual agreement that the Disputes Board Chair alone shall resolve the relevant Dispute. If the Parties issue such a joint written directive, the Disputes Board Chair rather than the Disputes Board shall resolve the relevant Dispute in accordance with the terms and conditions of this Agreement (except insofar as this Agreement contemplates resolution of a Dispute by a three member Disputes Board) and, if the three member Disputes Board had been previously empanelled, the two Party-appointed Disputes Board Members shall be dismissed from any further service on the Disputes Board.

3.2 Replacing Candidates on a Party's Disputes Board Member Candidates List.

3.2.1 At any time, either Party may replace any of the individuals on its Disputes Board Member Candidates List that are not then serving on the Disputes Board, provided, however, that no such individual shall be added to the Disputes Board Member Candidates List of the proposing Party (the **"Nominating Party"**) until complete Disclosure Statements on such individual are furnished to the other Party (the **"Evaluating Party"**) and the Evaluating Party approves or is deemed to approve such individual for inclusion on the Nominating Party's Disputes Board Member Candidates List. **"Disclosure Statements"** shall consist of the proposed Disputes Board Member

candidate's resume of experience and a discussion of the Disputes Board Member Qualifications as they apply to the proposed candidate. Within 30 days after receipt of a proposed candidate's Disclosure Statements by the Evaluating Party (the **"Disputes Board Member Candidate Evaluation Period"**), the Evaluating Party shall evaluate the proposed candidate's Disclosure Statements and notify the Nominating Party as to whether the candidate is approved by the Evaluating Party for inclusion on the Nominating Party's Disputes Board Member Candidates List.

3.2.2 During the Disputes Board Member Candidate Evaluation Period, the Evaluating Party (a) shall submit written inquiry to the Nominating Party if, in the Evaluating Party's reasonable judgment, the Disclosure Statements for the proposed candidate are incomplete such that, if they are not supplemented to the Evaluating Party's reasonable satisfaction, such incompleteness will comprise a basis for the Evaluating Party's disapproval of the proposed candidate and (b) may submit written inquiries to the Nominating Party if the Evaluating Party has questions or concerns about the proposed candidate's qualifications to serve on the Disputes Board in light of the Disputes Board Member Qualifications. Within fifteen days after the Nominating Party's receipt of any such written inquiry from the Evaluating Party, the Nominating Party shall (or shall cause the proposed candidate to) furnish a written response to the Evaluating Party's inquiry. The Evaluating Party may submit up to three such written inquiries. The Disputes Board Member Candidate Evaluation Period shall be extended a total of 30 days (including the 15 day inquiry response period) for each written inquiry made by the Evaluating Party. The submission of incomplete Disclosure Statements (following written inquiry from the Evaluating Party so that the Nominating Party has the opportunity to supplement any such incomplete Disclosure Statements) or failure by the Nominating Party or its proposed candidate to fully respond to the Evaluating Party's written inquiry shall constitute a basis for the Evaluating Party to disapprove the proposed candidate during the Disputes Board Member Candidate Evaluation Period. If the Evaluating Party notifies the Nominating Party of its approval, or does not notify the Nominating Party of its disapproval, of a proposed candidate within the Disputes Board Member Candidate Evaluation Period, such candidate shall be approved or deemed approved by the Evaluating Party.

3.2.3 During the course of the Nominating Party replacing five consecutive potential candidates on its Disputes Board Member Candidates List on a cumulative basis over time, the Evaluating Party may, upon notice to the Nominating Party, disapprove up to two proposed candidates for any or no reason. The Evaluating Party may, upon notice to the Nominating Party, only disapprove all subsequently proposed candidates of the Nominating Party based on any such candidate's failure to satisfy the Disputes Board Member Qualifications (which failure shall be described in detail in the Evaluating Party's notice of disapproval).

3.2.4 In furtherance of the Parties' objective of having in place at all times two Disputes Board Member Candidate Lists composed of five nominated and approved candidates meeting the Disputes Board Qualifications, but subject to the provisions of Section 3.2.3, if the Evaluating Party does not approve a proposed candidate for inclusion on the Nominating Party's Disputes Board Member Candidates List, the

Nominating Party shall propose subsequent candidates in reasonably rapid succession, and the selection process shall continue until the Evaluating Party's approval is obtained or deemed obtained as to a proposed candidate's inclusion on the Nominating Party's Disputes Board Member Candidates List.

3.2.5 If the Evaluating Party disapproves a proposed candidate of the Nominating Party due to failure of such candidate to satisfy the Disputes Board Member Qualifications, but the Nominating Party disagrees that such candidate is not qualified or eligible for service, the Nominating Party may initiate Informal Resolution Procedures and then, if such disagreement is not resolved to the Nominating Party's satisfaction, Dispute Resolution Procedures in order to resolve such Dispute.

3.3 Removal of Disputes Board Member; Appointment of Replacement.

3.3.1 The appointment of a Disputes Board Member (including the Disputes Board Chair) to the Disputes Board may be terminated at any time by any of the Persons specified below in this Section 3.3.1 due to the occurrence of Misconduct or due to Conflict of Interest not previously waived under Section 4.3.1 (such termination constituting a termination "**For Cause**" hereunder), effective upon service of such Person's notice of termination on the affected Disputes Board Member and, if the terminating Person is a Party, the other Party or, if the terminating Person is not a Party, the Parties. Following termination and removal of a Disputes Board Member For Cause or the death or resignation of a Disputes Board Member, the Disputes Board shall not proceed with the resolution of the applicable Dispute until a replacement Disputes Board Member has been appointed.

(a) Any two members of the Disputes Board may terminate the third Disputes Board Member's appointment For Cause;

(b) TxDOT and Developer may, upon mutual agreement, terminate any Disputes Board Member's appointment For Cause or without cause; and

(c) TxDOT or Developer may unilaterally terminate the appointment of any Disputes Board Member For Cause.

Provided, however, that if a Disputes Board Member's appointment is terminated For Cause and a Party disagrees that such Disputes Board Member should have been terminated For Cause, such Party may, within 5 Business Days after notice of the Disputes Board Member's termination of appointment is received, initiate Informal Resolution Procedures and then, if such disagreement is not resolved to the disagreeing Party's satisfaction, Dispute Resolution Procedures in order to resolve such Dispute. A Party may not unilaterally or by mutual agreement with the other Party terminate the appointment of any Disputes Board member For Cause and then dispute the proprietary of such termination.

3.3.2 In the event that one or more Disputes Board Members needs to be replaced due to removal, death or resignation of one or more Disputes Board Members, replacement Disputes Board Members shall be appointed in the same manner as the

predecessor Disputes Board Members(s) until the Disputes Board is reconstituted as a three person board. The appointment of each replacement Disputes Board Member will begin as soon as notice of removal, death or resignation is given or received and shall be completed as soon as possible, but in no event more than 30 days thereafter.

Section 4. Qualifications and Conduct of Disputes Board Members.

"Disputes Board Member Qualifications," as they pertain to each Disputes Board Member or proposed candidate for inclusion on a Party's Disputes Board Member Candidate List, consist of the requisite experience described in Section 4.1 below and the absence of grounds for disqualification as described in Section 4.2 below.

4.1 Requisite Experience. All Disputes Board Members shall be attorneys who (a) are retired judges with at least ten years prior experience as a sitting judge or (b) are active members of the State Bar of Texas or any other state bar with at least ten years prior experience acting as mediators, arbitrators or dispute board members for commercial disputes, in either case who have not been subject to disciplinary action within the past ten years. Preference shall be given to attorneys who, in addition to meeting the foregoing qualifications, are also experienced in interpreting or adjudicating contract rights and claims involving financing, design, construction, operations and/or maintenance of public infrastructure projects.

4.2 Disqualification. No Disputes Board Member shall have a financial interest in the Contract Documents, in any Contract or the Project or in the outcome of any Dispute decided hereunder, except for payments to that member for services on the Disputes Board.

4.3 Effect of Party's Prior Approval of Disputes Board Member.

4.3.1 An Evaluating Party's approval or deemed approval of a proposed candidate for inclusion on the Nominating Party's Disputes Board Member Candidates List shall constitute an irrevocable waiver of any subsequent objection to such individual's lack of qualifications under Section 4.1 (except if such individual's lack of qualifications constitutes Misconduct, as addressed in Section 4.3.2 below).

4.3.2 No approval or deemed approval by the Evaluating Party of a proposed candidate for inclusion on the Nominating Party's Disputes Board Member Candidates List shall constitute a waiver of any objection to a Conflict of Interest or Misconduct of such individual under Section 4.2, except that any matter fully disclosed in an individual's Disclosure Statements prior to inclusion of such individual on the Nominating Party's Disputes Board Member Candidates List with the approval or deemed approval of the Evaluating Party may not be subsequently asserted by the Evaluating Party as a Conflict of Interest or Misconduct constituting grounds for termination and removal of such individual from the Nominating Party's Disputes Board Member Candidates List or from service as a Disputes Board Member on the Disputes Board.

Section 5. Procedures and Scope of Work of the Disputes Board.

5.1 Procedures; Modification of Procedures. The Disputes Board shall conduct its proceedings to resolve a Dispute in accordance with the requirements specified or referenced herein; provided, however, that:

(a) The Parties may jointly modify the procedures applicable to the Disputes Board's proceedings to resolve a Dispute, effective upon the Disputes Board Chair's receipt of the Parties' written notice of the Parties' mutually agreed modification of such procedures describing such modification in detail (the foregoing being without limitation to any requirements applicable to the Parties' amendment of the Development Agreement or any requirements applicable to modification of the DRP Rules or the Sections of the Code under which the DRP Rules are promulgated); and

(b) The Disputes Board may modify the procedures applicable to its proceedings to resolve a Dispute so as to be more responsive to the needs of the Parties, provided that (i) the Disputes Board Chair issues written notice to the Parties describing the proposed modification in detail and (ii) both Parties give their written consent thereto, effective upon the Disputes Board Chair's receipt of the Parties' written consent thereto.

5.2 Ineligible Matters. As a preliminary matter prior to consideration of the underlying matter, the Disputes Board shall hear, consider and render a Disputes Board Decision with respect to the responding Party's assertion that a particular claim, demand, dispute, disagreement or controversy is an Ineligible Matter. Resolution of whether a claim, demand, dispute, disagreement or controversy is a Dispute that the Disputes Board has authority to resolve or an Ineligible Matter shall be resolved as a preliminary matter by the Disputes Board, and the Disputes Board Decision shall reflect that the underlying matter is a Dispute eligible for resolution by the Disputes Board unless a majority of the Disputes Board determines with positive assurance that such a determination would not be correct.

5.3 Procedures for Disputes Board's Resolution of Disputes.

5.3.1 The Disputes Board shall conduct its proceedings in accordance with the Commercial Rules, including time periods in which actions by the Disputes Board shall occur. "**Commercial Rules**" means the dispute resolution proceedings set forth in Attachment 2 attached hereto. For Fast-Track Disputes, the time frames provided in the Commercial Rules for Expedited Procedures (as defined in Attachment 2) shall apply in accordance with the Commercial Rules.

5.3.2 Each Disputes Board Member, or the Disputes Board Chair on behalf of the Disputes Board, shall promptly notify the Parties if any circumstances has or is likely to arise that would prevent prompt resolution of the applicable Dispute in accordance with the Commercial Rules and this Agreement.

5.3.3 The following provisions pertain to Small Claims:

(a) A **"Small Claim"** is a Claim or related or similar Claims which arise fairly contemporaneously out of the same set of acts, events or circumstances that the Parties mutually agree to have resolved solely by the Disputes Board Chair. A non-binding example of a Small Claim is where the cumulative amount in controversy of a Claim or related or similar Claims is $100,000 or less.

(b) Once the Disputes Board Chair is appointed to resolve a Small Claim, the other two Disputes Board Member shall be released from further service. Thereafter, in the context of the Disputes Board Chair's resolution of a Small Claim hereunder, all references in the dispute resolution procedures established in Section 19.3 of the Development Agreement to the "Disputes Board" or the "Disputes Board Members" shall mean and refer to the Disputes Board Chair. At any time prior to the close of the Disputes Board hearing under R-27 of the Commercial Rules, if, due to amendment of the Dispute as to the amount in controversy, aggregation of the Dispute with other Disputes or other changes that cause a Party to no longer consent to resolution of the Dispute as a Small Claim by the Dispute Board Chair, such Party may, upon notice to the Disputes Board Chair and the other Party, withdraw its assent to resolution of the Dispute as a Small Claim by the Disputes Board Chair and require that a full three-member Disputes Board be empanelled to resolve such Dispute.

(c) The Disputes Board Chair shall have no authority to award compensation or damages in a Disputes Board Decision regarding a Small Claim aggregating more than $100,000, and TxDOT or Developer as the claiming Party, as the case may be, asserting a Small Claim hereby irrevocably waives any right, at law or in equity, to any damages or award arising out of such Small Claim in excess of $100,000; provided, however, that the amount of $100,000 as stated in this Section 5.3.3(c) shall be adjusted on every fifth anniversary of the Effective Date by the percentage increase (if any) in the CPI between the date the CPI was most recently published before the Effective Date and the date most recently published before the date of adjustment.

5.4 Aggregation of Disputes. Either Party shall be entitled to request the Disputes Board to aggregate the consideration of multiple Disputes for resolution by the Disputes Board where common questions of fact, Law and contract interpretation and the efficiencies to be gained in conducting a single proceeding to resolve all such Disputes merit the aggregate consideration of all such Disputes. Upon receipt of such a request, the Disputes Board shall consider the aggregated Disputes in a single proceeding unless, as a preliminary matter, the Disputes Board determines (after considering any evidence presented by the Parties in support of, or in opposition to, the proposed aggregation of such Disputes for resolution in a single proceeding) that there are insufficient common questions of fact, Law and contract interpretation among the proposed aggregated Disputes and/or the efficiencies to be gained by conducting a single proceeding to resolve such Disputes are outweighed by the need for separate and independent resolution of some or all of the proposed aggregated Disputes (as specified in the Disputes Board Decision on this matter) by a separately empanelled Disputes Board in a separate proceeding. A Disputes Board Decision regarding

whether Disputes will be aggregated for resolution in a single proceeding before the Disputes Board shall be final, binding and not subject to appeal.

5.5 Issuance of Disputes Board Decision and Any Minority Report. The Disputes Board should make every effort to reach a unanimous decision among the Disputes Board Members. If this proves infeasible, the dissenting Disputes Board Member may prepare a minority report. Within 20 days after the final hearing on an Dispute (other than a Fast-Track Dispute, in which case within 5 days after the final hearing the Fast-Track Dispute), the Disputes Board Chair shall issue the Dispute Board's written decision (each, a "**Disputes Board Decision**"), together with its written findings of fact and conclusions of law in support of the Disputes Board Decision, to the Parties.

5.6 Confidential Materials; Return or Destruction Thereof. "**Confidential Materials**" are all discussions, negotiations, testimony and evidence between the Parties and/or in a proceedings before the Disputes Board that are confidential, to the extent allowed by law, pursuant to Section 19.3.8 of the Development Agreement. Each Disputes Board Member shall maintain the privacy of Confidential Information pursuant to Section 19.3.8 of the Development Agreement. Within 30 days after issuance of the Final Order Implementing Decision, the Disputes Board Chair shall furnish written notice to each Party listing the Confidential Materials in the Disputes Board's possession and, except for those Confidential Materials that a Party directs the Disputes Board to return to such Party in writing within 15 days after receipt of such notice, the Disputes Board Chair shall destroy all copies of all Confidential Materials in the Disputes Board's possession. Until the time for the Disputes Board Chair's issuance of the foregoing written notice, the Disputes Board shall hold all Confidential Materials in confidence other than making them available for production into evidence in subsequent proceedings.

5.7 Dissolution of Disputes Board. Once the Disputes Board Decision of the Disputes Board becomes final and the Executive Director has issued a Final Order Implementing Decision, the Disputes Board shall be dissolved and the Disputes Board Members serving on such Disputes Board shall be released from further service.

Section 6. Necessity of Submission of Dispute to Disputes Board.

A Party's submission of a Dispute to the Disputes Board for resolution and the Dispute Board's issuance of the Disputes Board Decision shall be conditions precedent to any subsequent proceeding concerning such Dispute, except as otherwise provided in Section 19.3 of the Development Agreement.

Section 7. TxDOT and Developer Responsibilities.

7.1 TxDOT Responsibilities. TxDOT shall serve upon each Disputes Board Member one copy of the Contract Documents. TxDOT shall also serve upon each Disputes Board Member (and concurrently upon Developer) any other documents which are or may become pertinent to the activities of the Disputes Board, including but not

limited to any Change Order, Directive Letter or other written direction, instruction, determination or decision of TxDOT.

7.2 Developer Responsibilities. Developer shall serve on each Disputes Board Member (and concurrently on TxDOT) one set of any documents which are or may become pertinent to the activities of the Disputes Board, except those documents furnished by TxDOT. Such documents may include, but shall not be limited to, any drawings or sketches, calculations, procedures, schedules, estimates or other documents and Submittals which are used in the performance of the Work or in justifying or substantiating Developer's position.

7.3 Parties' Responsibilities for Costs and Expenses; Cooperation.

7.3.1 Each Party shall be responsible and make payment for its one-half share of all facilities fees, support services costs and other expenses of the Disputes Board's proceedings within 30 days after receipt of invoices for such costs and expenses. A Party that disputes an invoice for any such cost or expense relating to the Disputes Board's proceedings shall notify the other Party of such dispute promptly after receipt of such invoice. If either Party fails to pay its share of the amount owing under any invoice for such costs and expenses at the time require for payment, then, unless the non-paying Party is disputing the amount due, (a) the other Party may make payment in lieu of the non-paying Party and (b) the paying Party will be entitled to recover (or offset) the amount paid on behalf of the refusing Party, with interest at the maximum rate permitted by Law, no matter which Party is the prevailing Party.

7.3.2 Each Party shall diligently cooperate with the Disputes Board and the other Party and shall perform such acts as may be necessary to obtain an efficient and expeditious resolution of the Dispute submitted to the Disputes Board. If either Party fails to diligently cooperate with the Disputes Board or the other Party (upon evidence of such failure presented to and evaluated by the Disputes Board) and the Disputes Board determines that such failure was egregious, the Disputes Board shall take into account such egregious failure to cooperate in its determination of the Disputes Board Decision; subject, however, to the limitations on the Disputes Board's authority set forth in Section 19.3.4.1 of the Development Agreement.

Section 8. Term.

Consistent with the DRP Rules, the term of this Agreement shall commence on the Effective Date and continue in full force and effect for the Term of the Development Agreement and thereafter for so long as either Party has any obligation originating under the Contract Documents until the applicable statute of limitations on any Dispute in regard to such obligation has expired.

Section 9. Payment of Disputes Board Members' Fees, Costs and Expenses.

9.1 Payment for Services. Payment of fees for work performed and services rendered by each Disputes Board Member and for his or her direct out-of-pocket costs and expenses shall be calculated in accordance with the payment terms set forth for

such Disputes Board Member in his or her respective Disputes Board Member Joinder Agreement. The personal services of the Disputes Board Member are a condition to receiving payments hereunder. Such payments shall be full compensation for work performed and services rendered by each respective Disputes Board Member, and for all labor, materials, supplies, equipment and incidentals necessary for such Disputes Board Member's participation in the operation of the Disputes Board.

9.2 Disputes Board Member Invoices. Each Disputes Board Member shall submit invoices on a monthly basis concurrently to TxDOT and Developer for payment for such Disputes Board Member's work performed and services rendered in the prior month. Such invoices shall be in a format approved by TxDOT and Developer, accompanied by an itemization of days and hours billed along with a description of activities performed during each day in that billing period, and an itemization of direct non-salary costs incurred supported by copies of the original bills, invoices, expense accounts and miscellaneous supporting data. The amount to be paid shall be established from the applicable billing rate set forth in each Disputes Board Member's Disputes Board Member Joinder Agreement plus costs and expenses in accordance with such agreement.

9.3 Payment by Parties. Each Party shall be responsible and make payment for its one-half share of all fees, costs and expenses of the Disputes Board Members' service on the Disputes Board. Each Disputes Board Member will be paid within 30 days of the Parties' receipt and acceptance of invoices therefor. A Party that disputes a Disputes Board Member's invoice shall notify such member and the other Party of such dispute promptly after receipt of such invoice. If either Party fails to pay its share of the amount owing to any Disputes Board Member at the time required for payment, then, unless the non-paying Party is disputing the amount due, (a) the other Party may make payment in lieu of the non-paying Party and (b) the paying Party will be entitled to recover (or offset) the amount paid on behalf of the refusing Party, with interest at the maximum rate permitted by Law, no matter which Party is the prevailing Party.

9.4 Retention of Cost Records and Accounts. Disputes Board Members shall keep available for inspection by representatives of TxDOT and Developer, for a period of five years after the final payment, the cost records and accounts pertaining to this Agreement and the performance of work and rendition of services as a member of the Disputes Board. If any claim arising out of, in connection with, or related to this Agreement is initiated before the expiration of the five year period, the cost records and accounts shall be retained until such claim involving the records is completed.

9.5 Parties to Bear Own Costs. Each Party shall bear its own costs arising out of or in connection with the Dispute Resolution Procedures.

9.6 Diligent Cooperation. The Parties shall diligently cooperate with one another and the Disputes Board, and shall perform such acts as may be necessary to obtain an efficient and expeditious resolution of Disputes submitted to the Disputes Board. If either Party refuses to diligently cooperate, and the other Party, after first giving notice setting forth the Party's basis for its contention of non-cooperation and

requesting specific action, incurs additional costs or attorneys', accountants' and expert witness fees solely as a result of such failure to diligently cooperate, then the Disputes Board may award such additional costs and, accountants' and expert witness fees to the Party giving such notice, even if such Party is not the prevailing Party in the Dispute. The Party so entitled to such award shall have the right to pursue and enforce it in any subsequent proceedings.

Section 10. Nonassignability.

Disputes Board Members shall not assign or delegate any of the work or services to be rendered in connection with the Dispute Resolution Procedures without the prior written consent of both TxDOT and Developer.

Section 11. Legal Relations.

11.1 Disputes Board Member as Independent Contractor. The Parties mutually understand and agree that any Disputes Board Member, in the performance of duties as a Disputes Board Member on the Disputes Board, is acting in the capacity of an independent contractor and not as an employee or agent of TxDOT or Developer. No Disputes Board Member will be entitled to any employee benefits from either Party.

11.2 No Effect on Potential Liabilities Under the Contract Documents or by Law. Except for the payment, offset and reimbursement obligations agreed to by the Parties as set forth herein, nothing in this Agreement alters the potential liabilities of either Party as provided under the Contract Documents and, subject to the terms and conditions of the Contract Documents, by Law.

11.3 Damages Waiver. Neither TxDOT nor Developer will hold any Disputes Board Member responsible for claims, damages, losses and expenses, including, but not limited to attorneys' fees and expenses, arising out of or resulting from the actions and recommendations of the Disputes Board, and the Parties expressly waive any right to the foregoing, except as a result of fraud, willful misconduct or criminal actions of the applicable Disputes Board Member.

Section 12. Applicable Law.

The Disputes for resolution by the Disputes Board shall be governed by and resolved under the Laws of the State of Texas, without regard to conflicts of law principles that would refer one to the Laws of another State.

Section 13. Amendment in Writing.

This Agreement may be altered, amended or revoked only by an instrument in writing signed by each Party. No verbal agreement or implied covenant or agreement shall be held to vary the terms hereof, any statute, law or custom to the contrary notwithstanding.

Section 14. Complementary Provisions; Order of Priority.

The Parties intend for the procedures established in Section 19.3 of the Development Agreement and any other relevant provisions of the Contract Documents, and the terms and conditions of this Agreement (except where this Agreement says they shall not apply), to be complementary. In the event of any conflict between this Agreement and Section 19.3 of the Development Agreement or any other relevant provision of the Contract Documents, the Development Agreement or other DRP Governed Agreement shall control.

Section 15. Notices.

Notices hereunder shall be sent as provided in Section 24.11 of the Development Agreement. The address for each Disputes Board Member shall be set forth on the signature page of each Disputes Board Member Joinder Agreement.

[signatures on following page]

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement as of the Effective Date.

Developer:

ABRAMS-KIEWIT, JV

By: J.D. Abrams, L.P.

By: _____
Name: Jon F. Abrams
Title: President

By: Kiewit Infrastructure South Co.

By: _____
Name: Shane T. Petersen
Title: Senior Vice President

TxDOT:

TEXAS DEPARTMENT OF TRANSPORTATION

By: _____
LtGen J.F. Weber, USMC (Ret)
Executive Director

ATTACHMENT 1 TO DISPUTES BOARD AGREEMENT

DISPUTES BOARD MEMBER JOINDER AGREEMENT

This DISPUTES BOARD MEMBER JOINDER AGREEMENT (this "**Agreement**") is entered into this _____ day of _____, _____ by and between _____ [*Specify TxDOT or Developer*] (the "**Appointing Party**"), and _____, an individual (the "**Disputes Board Member**").

RECITALS

A. TxDOT and Developer are parties to that certain Development Agreement, for the Loop 375 – Border Highway West Extension Project, dated as of the Effective Date (the "**Development Agreement**") and the other Contract Documents, all of which collectively comprise a comprehensive development agreement under Chapter 223 of the Code.

B. Section 19.3 of the Development Agreement, among other things, provides for the establishment and operation of a disputes review board (each such board being referred to herein as the "**Disputes Board**") to resolve each Dispute if, as and when, a Dispute arises under the Contract Documents.

C. The Appointing Party desires to appoint the Disputes Board Member to the Disputes Board to resolve such a dispute and the Disputes Board Member desires to accept such appointment, each on the terms and conditions set forth in Section 19.3 of the Development Agreement, the Disputes Board Agreement and this Agreement, and for that purpose, the parties hereto have agreed to enter into this Agreement pursuant to Section 3.1.2 of the Disputes Board Agreement.

NOW THEREFORE, in consideration of the terms, conditions, covenants and agreements contained herein and in the Disputes Board Agreement, the receipt and sufficiency of which the parties hereto hereby acknowledge, the parties hereto hereby agree as follows:

Section 1. Definitions and References.

1.1 Definitions. All capitalized terms used in this Agreement and not defined or modified herein shall have the same meaning as set forth in the Contract Documents and, if not defined therein, in the Disputes Board Agreement.

1.2 Reference to Disputes Board Agreement and Section 19.3 of Development Agreement. The Disputes Board Agreement and Section 19.3 of the Development Agreement, which, among other things, discusses the Disputes Board's role in resolving Disputes, are incorporated herein by reference.

Section 2. Appointment.

2.1 Appointment. The Appointing Party appoints the Disputes Board Member to the Disputes Board to serve thereupon and resolve the applicable Dispute, and the Disputes Board Member accepts such appointment and agrees to perform such service, each in accordance with the terms and conditions of Section 19.3 of the Development Agreement, the Disputes Board Agreement and this Agreement.

2.2 Term of Service. The Disputes Board Member shall serve on the Disputes Board through resolution of the Dispute before the Disputes Board and issuance of the Final Order Implementing Decision in respect thereto, except that (a) unless he or she is the Disputes Board Chair, he or she may be earlier dismissed from service pursuant to Section 5.3.3(b) of the Disputes Board Agreement because the dispute to be resolved is a Small Claim; (b) the Disputes Board Member may resign for health considerations or other reasons of disability; or (c) the Disputes Board Member shall resign if he or she discovers facts or circumstance that would, in such member's reasonable good faith judgment, prevent such member from discharging his or her duties in the resolution of a Dispute in the impartial and objective manner required under the Disputes Board Agreement or facts or circumstances that such member reasonably and in good faith believes would result in a Party terminating such member's appointment For Cause. The Disputes Board Member shall endeavor to give 30 days' notice prior to the effective date of his or resignation.

Section 3. Representations, Warranties and Covenants.

3.1 Representations and Warranties. The Disputes Board Member hereby represents and warrants to TxDOT and Developer, under penalty of perjury, that such Disputes Board Member satisfies the Disputes Board Member Qualifications.

3.2 Covenants. The Disputes Board Member covenants to TxDOT and Developer that he or she:

(a) Shall be bound by and perform such member's obligations with respect to the Dispute Resolution Procedures in accordance with the procedures established under Section 19.3 of the Development Agreement;

(b) Shall not engage in any conduct, including, but not limited to, having any communications, dealings or interactions with either Party, the Conflicts Group or any other Person in any manner, that would be or result in a Disputes Board Error; and

(c) Shall preserve, maintain and protect the confidentiality of Confidential Materials in accordance with Section 19.3.8 of the Development Agreement.

Section 4. Compensation.

4.1 Invoicing and Payment. The Disputes Board Member's hourly billing rate and costs and expenses for service on the Disputes Board or means for calculating same are attached hereto as Annex I. Invoicing and payment of fees, costs and expenses shall take place in accordance with Sections 9.1, 9.2 and 9.3 of the Disputes Board Agreement.

4.2 No Compensation After Termination. If the Disputes Board Member's appointment to the Disputes Board is terminated, whether For Cause or otherwise, the Disputes Board Member will not be entitled to receive payment for any services rendered or costs and expenses incurred after the date of termination of such appointment.

Section 5. General Provisions.

5.1 Third Party Beneficiary. Whichever of TxDOT or Developer that is not the Appointing Party is an express third party beneficiary of this Agreement entitled to enforce the terms and conditions hereof against the Disputes Board Member.

5.2 Nonassignability. The Disputes Board Member shall not assign or delegate any of the work or services to be rendered in connection with the Dispute Resolution Procedures without the prior written consent of both TxDOT and Developer.

5.3 Disputes Board Member as Independent Contractor. The Disputes Board Member is acting in the capacity of an independent contractor and not as an employee or agent of TxDOT or Developer. The Disputes Board Member is not entitled to any employee benefits from either Party.

5.4 Consequential Damages Waiver. In no event shall TxDOT or Developer have any liability to the Disputes Board Member other than for payment of the Disputes Board Member's fees, costs and expenses hereunder. Neither TxDOT nor Developer shall be liable to the Disputes Board Member for any special, consequential, indirect, enhanced, punitive, or similar damages (including lost profits that are not direct damages), including but not limited to attorneys' fees and expenses, arising under or in connection with this Agreement, and the Disputes Board Member expressly waives any right to the foregoing.

5.5 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Texas, without regard to conflicts of law principles that would refer one to the Laws of another State.

5.6 Entire Agreement. This Agreement, and the documents referenced herein, contain the entire understanding of the parties hereto with respect to the subject matter hereof and supersede all prior agreements, understandings, statements, representations and negotiations between the parties hereto with respect to its subject matter.

5.7 Amendment in Writing. This Agreement may be altered, amended or revoked only by an instrument in writing signed by each Party. No verbal agreement or implied covenant or agreement shall be held to vary the terms hereof, any statute, law or custom to the contrary notwithstanding.

5.8 Survival. This Agreement shall automatically terminate upon expiration or termination of the Disputes Board Member's service hereunder, except that the provisions of this Section 5 shall survive termination of this Agreement.

5.9 Counterparts. This instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHERE, the parties hereto, intending to be legally bound, have executed this Agreement as of the day and year first set forth above.

Appointing Party:

[*TxDOT or Developer*]

By:_____

Name:_____

Title: _____

Disputes Board Member:

By:_____

Name:_____

Address:

_____

_____

_____

_____

<u>Annex I</u>

to

Disputes Board Member Joinder Agreement

Fees, Costs and Expenses

[*To be attached*]

ATTACHMENT 2 TO DISPUTES BOARD AGREEMENT

COMMERCIAL RULES

R-1. Agreement of The Parties

(a) The **"Expedited Procedures"** means the rules set forth in Sections E-1 through E-6 below. Unless the Parties determine otherwise, the Expedited Procedures shall apply to Fast-Track Disputes in addition to any other portion of these rules that is not in conflict with the Expedited Procedures.

(b) The **"Procedures for Large, Complex Commercial Disputes"** means the rules set forth in Sections L-1 through L-3 below. Unless the Parties agree otherwise, such Procedures shall apply to all cases in which the Dispute is valued at $500,000 or more, exclusive of claimed interest, fees and costs. The Parties may also agree to use such Procedures in cases involving non-monetary Disputes. Such Procedures shall be applied in addition to any other portion of these rules that is not in conflict with the Procedures for Large, Complex Commercial Disputes.

(c) All other cases shall be administered in accordance with Sections R-2 through R-43 of these rules.

(d) If there is any inconsistency between these Commercial Rules and Section 19.3 of the Development Agreement, Section 19.3 of the Development Agreement shall control.

R-2. Disputes Board

The term "Disputes Board" in these Commercial Rules refers to the three member Disputes Board, constituted for a particular case, or to the Disputes Board Chair, as the context requires.

R-3. Assumed Objection

Unless the responding Party states otherwise in its response to the claiming Party's notice of referral of a Dispute to the Disputes Board, all aspects of the Dispute will be deemed to be denied by the other Party (other than any objection to the Disputes Board's authority to resolve the Dispute, which must be affirmatively asserted).

R-4. Changes of Claim

After notice of referral of a Dispute to the Disputes Board is given or received, if either Party desires to make any amended, new, or different claim or counterclaim, it shall be made in writing and filed with the Disputes Board. The Party asserting such an amended, new or different claim or counterclaim shall provide a copy to the other Party,

who shall have 15 days from the date of such transmission within which to file an answering statement with the Disputes Board.

R-5. Jurisdiction

(a) The Disputes Board shall have the power to rule on its own jurisdiction, i.e., to determine if an alleged Dispute is an Ineligible Matter.

(b) The Disputes Board shall rule on jurisdictional objections as a preliminary matter prior to proceeding with proceedings to resolve the underlying Dispute.

R-6. Administrative Conference

At the request of either Party or upon the Disputes Board's own initiative, the Disputes Board may conduct an administrative conference, in person or by telephone, with the Parties and/or their representatives. The conference may address such issues as the replacement of one or more Disputes Board Members, potential mediation of the Dispute, potential exchange of information, a timetable for hearings and any other administrative matters.

R-7. Appointment

Because the Disputes Board Agreement between the Parties specifies a method of appointing a Disputes Board, that designation or method shall be followed.

R-8. Disclosure

(a) Any person appointed or to be appointed as a Disputes Board Member shall disclose to the Parties any circumstance likely to give rise to justifiable doubt as to such Disputes Board Member's impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the Parties or their representatives. Such obligation shall remain in effect throughout the period of such member's service on the Disputes Board.

(b) In order to encourage disclosure by Disputes Board Members and candidates, disclosure of information pursuant to this R-8 is not to be construed as an indication that the disclosing individual considers that the disclosed circumstance is likely to affect impartiality or independence.

R-9. Disqualification of Disputes Board Member

Each Disputes Board Member shall be impartial and independent and shall perform his or her duties with diligence and in good faith, and shall be subject to disqualification for:

(a) inability or refusal to perform his or her duties with diligence and in good faith, and

(b) any grounds for disqualification provided by applicable law, the Disputes Board Agreement or the Contract Documents.

R-10. No Ex Parte Communication with Disputes Board Members

(a) During the period that any Disputes Board Member is then serving on a Disputes Board, (i) neither Party, including its counsel or designated representatives, shall communicate ex parte with such Disputes Board Member and (ii) no Disputes Board Member shall communicate ex parte with any Person (other than other Disputes Board Members), including but not limited to, either Party, its counsel or designated representatives, regarding any aspect of the applicable Dispute.

(b) Each Party may communicate with individuals listed on its respective Disputes Board Member Candidates' List for the purposes of (i) ascertaining their availability to serve on a particular Disputes Board and/or (ii) reconfirming such individuals' qualifications under the Disputes Board Member Qualifications and the absence of Conflicts of Interest and Misconduct, provided that the communicating Party simultaneously furnishes copies of all such written correspondence with such individuals to the other Party and gives the other Party advance notice and opportunity to participate in all verbal communication with such individuals. Ex parte communication regarding the substance of any Dispute between a Party and individuals listed on its respective Disputes Board Member Candidates' List is prohibited.

R-11. Hearings After Filling of Vacancies

In the event of the appointment of a substitute Disputes Board Member, the panel of Disputes Board Members shall determine in its sole discretion whether it is necessary to repeat all or part of any prior hearings.

R-12. Preliminary Hearing

(a) At the request of either Party or at the discretion of the Disputes Board, the Disputes Board may schedule as soon as practicable a preliminary hearing with the Parties and/or their representatives. The preliminary hearing may be conducted by telephone at the Disputes Board's discretion.

(b) During the preliminary hearing, the Parties and the Disputes Board should discuss the future conduct of the case, including clarification of the nature of the Dispute, a schedule for the hearings and any other preliminary matters.

R-13. Exchange of Information; Discovery

(a) At least five Business Days prior to the hearing, the Parties shall exchange (i) copies of all exhibits they intend to submit at the hearing and (ii) lists of witnesses anticipated to be called at the hearing, in each case except for witnesses or exhibits to be offered for the purpose of impeachment or rebuttal.

(b) The Disputes Board Chair is authorized to resolve any disputes concerning the exchange of information or the Parties' discovery.

R-14. Date, Time, and Place of Hearing

The Disputes Board Chair shall set the date, time, and place for each hearing at a neutral and reasonably cost-efficient location in Travis County, Texas that is reasonably convenient for the Parties. The Parties shall respond to requests for hearing dates in a timely manner, be cooperative in scheduling the earliest practicable date, and adhere to the established hearing schedule. The Disputes Board shall send a notice of hearing to the Parties at least 5 Business Days in advance of the hearing date, unless otherwise agreed by the Parties.

R-15. Attendance of Witnesses

Except for each Party's counsel and other authorized representative, upon the request of either Party or its own initiative, the Disputes Board shall have the power to require the exclusion of any witness or potential witness during the testimony of any other witness.

R-16. Representation

Each Party may be represented by counsel or other authorized representative. A Party intending to be so represented shall notify the other Party and the Disputes Board of the name and address of the representative at least three days prior to the date set for the hearing at which that person is first to appear. When such a representative initiates or responds for a Party in the course of the Dispute Resolution Procedures, notice is deemed to have been given by the Party represented by such representative.

R-17. Dispute Board Members' Certifications; Witness Oaths

Before proceeding with the first hearing, each Disputes Board Member shall have entered into a Disputes Member Joinder Agreement with a Party in which he or she certifies, under penalty of perjury as to his or her meeting the Disputes Board Member Qualification and the absence of Conflicts of Interest and Misconduct (and a covenant to not engage in Misconduct). The Disputes Board shall require witnesses to testify under oath.

R-18. Stenographic Record

Any Party desiring a stenographic record shall make arrangements directly with a stenographer and shall notify the other Party of these arrangements at least three days in advance of the hearing. The requesting Party shall pay the cost of the record. If the transcript is agreed by the Parties, or determined by the Disputes Board to be the official record of the proceeding, it must be provided to the Disputes Board and made available to the other Party for inspection, at a date, time, and place determined by the Disputes Board.

R-19. Interpreters

Any Party wishing an interpreter shall make all arrangements directly with the interpreter and shall assume the costs of the service.

R-20. Postponements

The Disputes Board may postpone any hearing upon agreement of the Parties, upon request of a Party for good cause shown, or upon the Disputes Board's own initiative for good cause shown.

R-21. Proceedings in the Absence of a Party or Representative

The Dispute Board's proceedings may proceed in the absence of either Party or representative who, after due notice, fails to be present or fails to obtain a postponement. An Disputes Board Decision shall not be made solely on the default of a Party. The Disputes Board shall require the Party who is present to submit such evidence as the Disputes Board may require for the making of a Disputes Board Decision.

R-22. Conduct of Proceedings

(a) The claimant Party shall present evidence to support its claim. The respondent Party shall then present evidence to support its defense. Witnesses for each Party shall also submit to questions from the Disputes Board and the adverse Party. The Disputes Board has the discretion to vary this procedure, provided that the Parties are treated with equality and that each Party has the right to be heard and is given a fair opportunity to present its case.

(b) The Disputes Board, exercising is discretion, shall conduct the proceedings with a view to expediting the resolution of the Dispute and may direct the order of proof, bifurcate proceedings and direct the Parties to focus their presentations on issues the decision of which could dispose of all or part of the case.

(c) The Parties may agree to waive oral hearings in any case.

R-23. Evidence

(a) The Parties may offer such evidence as is relevant and material to the Dispute and shall produce such evidence as they or the Disputes Board deems relevant and necessary to an understanding and determination of the Dispute. Conformity to the Texas Rules of Evidence shall be required, except where these Commercial Rules contain a contrary rule. All evidence shall be taken in the presence of all of the Disputes Board Members and both of the Parties, except where a Party fails to attend the hearing or has waived the right to be present.

(b) Subject to the Texas Rules of Evidence, the Disputes Board shall determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the Disputes Board to be cumulative or irrelevant.

(c) The Disputes Board shall take into account applicable principles of legal privilege, such as those involving the confidentiality of communications between a lawyer and client.

(d) Special discovery and evidentiary rules:

(i) The Disputes Board Chair shall, at the request of either Party, issue subpoenas for the attendance of witnesses or the production of books, records, documents or other evidence, whether for deposition or for hearing, in the manner provided by law for issuance of a subpoena in a civil action pending in a state district court. All provisions of the Texas Rules of Civil Procedure for service and response to subpoenas in a civil action pending in state district court shall apply to subpoenas issued pursuant hereto.

(ii) Each Party shall be entitled to take depositions of witnesses and to propound written discovery in the manner, and to the extent, provided by Law for discovery in a civil action pending in a state district court, consistent with Rule 190.3 of the Texas Rules of Civil Procedure. The Disputes Board Chair shall, at the request of either Party, or may, on his or her own initiative, adopt a discovery control plan as contemplated by Rule 190.4 of the Texas Rules of Civil Procedure.

(iii) The disclosure of expert witness information and the depositions of designated expert witnesses shall be conducted as provided by the Texas Rules of Civil Procedure for cases in state district court.

(iv) At the hearing, each Party shall have the right to be heard, to present evidence, including expert witness testimony, and to cross-examine witnesses, including the Independent Engineer.

R-24. No Evidence by Affidavit; Post-hearing Filing of Documents or Other Evidence

(a) The Disputes Board may not receive and consider the evidence of witnesses by declaration or affidavit.

(b) If the Parties agree or the Disputes Board directs that documents or other evidence be submitted to the Disputes Board after the hearing, the documents or other evidence shall be transmitted to each Disputes Board Member. Both Parties shall be afforded an opportunity to examine and respond to such documents or other evidence.

R-25. Inspection or Investigation

The Disputes Board may find it necessary to make an inspection or investigation in connection with its proceedings and, if so, shall so advise the Parties. The Disputes

Board shall set the date and time of such inspection or investigation and notify the Parties thereof. Any Party who so desires may be present at such an inspection or investigation. In the event that one or both The Parties are not present at the inspection or investigation, the Disputes Board shall make an oral or written report to the Parties on the result or findings from such inspection or investigation and afford them an opportunity to comment.

R-26. Interim Measures

(a) The Disputes Board may take whatever interim measures it deems necessary, including measures for the protection or conservation of property and disposition of perishable goods.

(b) Such interim measures may take the form of an interim Disputes Board Decision,.

(c) A request for interim measures addressed by a Party to a Travis County, Texas district court shall not be deemed incompatible with the agreement to have the underlying Dispute resolved by the Disputes Board or a waiver of the right to have the underlying Dispute resolved by the Disputes Board.

R-27. Closing of Hearing

The Disputes Board shall specifically inquire of both Parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the Disputes Board shall declare the hearing closed. If briefs are to be filed, the hearing shall be declared closed as of the final date set by the Disputes Board for the receipt of briefs. If documents are to be filed as provided in R-24 and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the closing date of the hearing. The time limit within which the Disputes Board is required to make the Disputes Board Decision shall commence, in the absence of other agreements by the Parties, upon the closing of the hearing.

R-28. Reopening of Hearing

The hearing may be reopened only upon application of a Party for good cause shown, as determined in the discretion of the Disputes Board, at any time before the Disputes Board Decision is issued The Disputes Board may reopen the hearing and shall have 30 days from the closing of the reopened hearing within which to issue the Disputes Board Decision.

R-29. Waiver of Rules

Any Party who proceeds with the Disputes Board proceedings after knowledge that any provision or requirement of these rules has not been complied with and who fails to state an objection in writing to the other Party and the Disputes Board shall be deemed to have waived the right to object.

R-30. Extensions of Time

The Parties may modify any period of time in these rules by mutual agreement. The Disputes Board may for good cause extend any period of time established by these rules, except the time for issuance of the Disputes Board Decision. The Disputes Board shall notify the Parties of any extension.

R-31. Serving of Notice

(a) Any papers, notices, or process necessary or proper for the initiation or continuation of Disputes Board proceedings under these rules, for any court action in connection therewith, or for the entry of judgment on any Disputes Board Decision made under these rules shall be given in accordance with Section 24.11 of the Development Agreement.

(b) Unless otherwise instructed by the Disputes Board, any documents submitted by either Party to the Disputes Board shall simultaneously be provided to the other Party.

R-32. Majority Decision

When the panel consists of more than one Disputes Board, a majority of the Disputes Board Members must make all decisions.

R-33. Time of Issuance of the Disputes Board Decision

The Disputes Board Decision shall be issued promptly by the Disputes Board and no later than 30 days from the date of closing the hearing, or, if oral hearings have been waived, from the date of the Parties' transmittal of the final statements and proofs to the Disputes Board.

R-34. Form of Disputes Board Decision

(a) Any Disputes Board Decision shall be in writing and signed by a majority of the Disputes Board Members.

(b) The Disputes Board shall also issue written findings of fact and conclusions of law to accompany the Disputes Board Decision.

R-35. Scope of Disputes Board Decision

(a) The Disputes Board may determine the occurrence of any event that is a prerequisite to a Party's claim for any remedy or relief in the Dispute, and grant any remedy or relief to resolve the Dispute, that the Disputes Board deems just and equitable and within the scope of the agreement of the Parties under Section 19.3 of the Development Agreement, including, but not limited to, specific performance of any obligation under the Contract Documents.

(b) In addition to a final Disputes Board Decision, the Disputes Board may make other decisions, including interim, interlocutory, or partial rulings, orders, and decisions. In any interim, interlocutory, or partial Disputes Board Decision, the Disputes Board may assess and apportion the fees, expenses, and compensation related to such Disputes Board Decision as the Disputes Board determines is appropriate, subject, however, to the limitations of the Disputes Board's authority in Section 19.3.4.1(e) of the Development Agreement.

(c) In the final Disputes Board Decision, the Disputes Board shall assess compensation amounts. The Disputes Board may apportion fees and expenses between the Parties in such amounts as the Disputes Board determines is appropriate in its discretion, subject, however, to the limitations of the Disputes Board's authority under Section 19.3.4.1(e) of the Development Agreement.

R-36. Disputes Board Decision upon Settlement

If the Parties settle the Dispute during the course of the Disputes Board proceedings and if the Parties so request, the Disputes Board may set forth the terms of the settlement in a "consent Disputes Board Decision."

R-37. Acceptance of Delivery of Disputes Board Decision

The Parties shall accept as notice and delivery of the written Disputes Board Decision, together with the written findings of fact and conclusions of law, addressed and provided to them in the manner provided under Section 24.11 of the Development Agreement.

R-38. Correction of Errors in Disputes Board Decision

Within 5 Business Days after the transmittal of a Disputes Board Decision, either Party, upon notice to the other Party, may request the Disputes Board, through the Disputes Board Chair, to correct any clerical, typographical, or computational errors in the Disputes Board Decision. The Disputes Board is not empowered under this R-38 to redetermine the merits of any Dispute already decided. The other Party shall be given 5 Business Days to object to the request on the ground that there is no clerical, typographical, or computational error in the decision. The Disputes Board shall perform the request correction of errors within 10 Business Days after transmittal by the Disputes Board Chair of the request for correction of errors unless the other Party objects. Any unresolved disagreement between the Parties as to the existence of a

clerical, typographical, or computational error in the Disputes Board Decision can be subsequently pursued, if at all, under R-28.

R-39. Release of Documents for Subsequent Proceedings

The Disputes Board shall, upon the written request of a Party, furnish to the Party, at the Party's expense, certified copies of any papers in the Disputes Board's possession that may be required in further administrative or judicial proceedings relating to resolution of the Dispute.

R-40. Applications to Court and Exclusion of Liability

(a) No judicial proceeding by a Party relating to a Dispute shall be deemed a waiver of the Party's right to have the Dispute resolved by Dispute Board proceedings.

(b) Neither any Disputes Board Member nor the Disputes Board in a proceeding under these rules is a necessary or proper Party in judicial proceedings relating to a Dispute.

R-41. Expenses

The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the Dispute Board's proceedings, including required travel and other expenses of the Disputes Board, Disputes Board representatives, and any witness and the cost of any proof produced at the direct request of the Disputes Board, shall be borne equally by the Parties, unless they agree otherwise or unless the Disputes Board in the Disputes Board Decision assesses such expenses or any part thereof against any specified Party or The Parties (in the latter case subject, however, to the limitations of the Disputes Board's authority under Section 19.3.4.1(e) of the Development Agreement).

R-42. Interpretation and Application of Rules

The Disputes Board shall interpret and apply these rules insofar as they relate to the Disputes Board's powers and duties to resolve the particular Dispute for which such Disputes Board was empanelled to resolve.

R-43. No Suspension for Nonpayment

If a Disputes Board Member's compensation or administrative charges have not been paid in full, such Disputes Board Member may so inform the Parties in order that one of them may advance the required payment. If such payments are not made, and the non-paying Party does not within 30 days after its receipt of the unpaid Disputes Board Member's invoice provide notice to such member and the other Party as to such Party's dispute of such member's invoice, the Disputes Board may order the suspension or termination of the proceedings. If a Party disputes a Disputes Board Member's invoice and provides such notice, no suspension or termination of the proceedings shall occur. Ex parte conversations to resolve a fee dispute between the Dispute Board

Member whose invoice is disputed and the disputed Party are prohibited during the Dispute Board's resolution of the Dispute, and any such conversations shall be deferred until the Disputes Board Decision is final.

EXPEDITED PROCEDURES FOR FAST-TRACK DISPUTES

E-1. Serving of Notices

In addition to notice provided pursuant to Section 24.11 of the Development Agreement, the Parties can agree in writing to also accept notice by telephone. If the Parties so agree, a failure to confirm in writing any such oral notice, the proceeding shall nevertheless be valid if notice has, in fact, been given by telephone.

E-2. Exchange of Exhibits

At least two Business Days prior to the hearing, the Parties shall exchange copies of all exhibits they intend to submit at the hearing. The Disputes Board shall resolve disputes concerning the exchange of exhibits.

E-3. Proceedings on Documents

Where no Party's claim exceeds $10,000, exclusive of interest and arbitration costs, and other cases in which the Parties agree, the Dispute shall be resolved by submission of documents, unless either Party requests an oral hearing, or the Disputes Board determines that an oral hearing is necessary. The Disputes Board shall establish a fair and equitable procedure for the submission of documents.

E-4. Date, Time, and Place of Hearing

In cases in which a hearing is to be held, the Disputes Board shall set the date, time, and place of the hearing, to be scheduled to take place within 10 days after appointment of the Disputes Board Chair. The Disputes Board will notify the Parties in advance of the hearing date.

E-5. The Hearing

(a) Each Party shall have equal opportunity to submit its proofs and complete its case.

(b) The Disputes Board shall determine the order of the hearing and schedule and control its duration consistent with the objective of expedited resolution of the Fast-Track Dispute, and may require further submission of documents within two days after the hearing. For good cause shown, the Disputes Board may schedule additional hearings within seven Business Days after the initial hearing.

(c) Any Party desiring a stenographic record may arrange for one pursuant to the provisions of R-18.

E-6. Time of Award

Unless otherwise agreed by the Parties, the Disputes Board Decision shall be rendered not later than 14 days from the date of the closing of the hearing or, if oral hearings have been waived, from the date of the Parties' transmittal of the final statements and proofs to the Disputes Board.

PROCEDURES FOR LARGE, COMPLEX COMMERCIAL DISPUTES

L-1. Administrative Conference

Prior to the commencing proceedings to resolve a Dispute, the Disputes Board shall, unless the Parties agree otherwise, conduct an administrative conference with the Parties and/or their attorneys or other representatives by conference call within 7 days after the Disputes Board Chair is appointed. In the event the Parties are unable to agree on a mutually acceptable time for the administrative conference, the Dispute Board shall, upon three Business Days' advance notice, schedule the administrative conference for 9 a.m. (CST) on the fourth Business Day and such administrative conference shall take place at such date and time. Such administrative conference shall be conducted for the following purpose of obtaining additional information about the nature and magnitude of the Dispute and the anticipated length of hearing and scheduling and for such additional purposes as the Parties or the Disputes Board may deem appropriate.

L-2. Preliminary Hearing

As promptly as practicable after the appointment of the Disputes Board, a preliminary hearing shall be held among the Parties and/or their attorneys or other representatives and the Disputes Board. If the Parties agree, the preliminary hearing will be conducted by telephone conference call rather than in person. At the preliminary hearing the matters to be considered shall include, without limitation:

(a) service of a detailed statement of the Dispute, including damages and defenses, a statement of the issues asserted by each Party and positions with respect thereto, and any legal authorities the Parties may wish to bring to the attention of the Disputes Board;

(b) stipulations to uncontested facts;

(c) the extent to which discovery shall be conducted, in light of the special discovery and evidentiary rules set forth above in R-23(d);

(d) exchange and premarking of those documents which each Party believes may be offered at the hearing;

(e) the identification and availability of witnesses, including experts, and such matters with respect to witnesses including their biographies and expected testimony as may be appropriate;

(f) whether, and the extent to which, any sworn statements and/or depositions may be introduced;

(g) the extent to which hearings will proceed on consecutive days;

(h) whether a stenographic or other official record of the proceedings shall be maintained;

(i) the possibility of utilizing mediation or other non-adjudicative methods of dispute resolution; and

(j) the procedure for the issuance of subpoenas.

By agreement of the Parties and/or order of the Disputes Board Chair, the pre-hearing activities and the hearing procedures that will govern the Disputes Board's proceedings will be memorialized in a scheduling and procedure order (each, a **"Scheduling and Procedure Order"**). Nothing in any Schedule and Procedure Order shall conflict with the procedures established under Section 19.3 of the Development Agreement.

L-3. Management of Proceedings

(a) The Disputes Board shall take such steps as they may deem necessary or desirable to avoid delay and to achieve a just, speedy and cost-effective resolution of Large, Complex Commercial Cases, provided, however, that no action by the Disputes Board under this L-3 shall conflict with the procedures established under Section 19.3 of the Development Agreement.

(b) The Parties shall cooperate in the exchange of documents, exhibits and information within such Party's control if the Disputes Board(s) consider such production to be consistent with the goal of achieving a just, speedy and cost-effective resolution of a Large, Complex Commercial Case.

(c) The Parties may conduct discovery, subject to any limitations deemed appropriate and set forth in the discovery control plan and/or the Scheduling and Procedure Order. If the Parties cannot agree on production of documents and other information, the Disputes Board, consistent with the expedited nature of arbitration, may establish the extent of the discovery.

(d) The Parties shall exchange copies of all exhibits they intend to submit at the hearing 10 Business Days prior to the hearing unless the Disputes Board Chair determines otherwise.

(e) The exchange of information pursuant to this rule, as agreed by the Parties and/or directed by the Disputes Board Chair, shall be included within the Scheduling and Procedure Order.

(f) The Disputes Board is authorized to resolve any disputes concerning the exchange of information.

(g) Generally hearings will be scheduled on consecutive days or in blocks of consecutive days in order to maximize efficiency and minimize costs.

EXHIBIT 20

PROGRESS PAYMENT CERTIFICATE

WHEREAS, the Texas Department of Transportation ("TxDOT") and Abrams-Kiewit, a joint venture composed of J.D. Abrams, L.P. and Kiewit Infrastructure South Co., ("Developer") are parties to a Development Agreement to develop, design, construct and at TxDOT's option, maintain the Loop 375 - Border Highway West Extension Project ("Project") in Tarrant County, Texas; and

WHEREAS, TxDOT has issued to Developer a Certificate of Final Acceptance for the design and construction of the Project; and

WHEREAS, pursuant to the Maximum Payment Schedule set forth in the Development Agreement, TxDOT's payments to Developer for design and construction of the Project must continue beyond the date of Final Acceptance of Developer's design and construction work by TxDOT; and

WHEREAS, TxDOT has determined that there is no dispute that it owes $_____ to Developer, to be paid in accordance with the schedule described in Section 12.4.6 of the Development Agreement; and

NOW THEREFORE, TxDOT acknowledges its obligation, subject to Texas law, to pay Developer a total of $_____, and hereby certifies that it will pay that obligation by monthly payments as set forth on Attachment A.

Executed as of the ____.day of _____, ____.

TEXAS DEPARTMENT OF TRANSPORTATION

_____

LtGen J.F. Weber, USMC (Ret)
Executive Director

Exhibit 20

Attachment A

PAYMENT DATE	PAYMENT AMOUNT

Exhibit 21

KEY SUBCONTRACTORS

List of Key Subcontractors by Discipline or Role:

- Project Management: Abrams-Kiewit, J.V., J.D. Abrams, L.P., Kiewit Infrastructure South Co.

- Lead Design Firm: Kellogg Brown & Root Services

- Quality Control Management: Abrams-Kiewit, J.V. and Kellogg Brown & Root Services

- Quality Assurance Management: URS Corporation and Professional Service Industries, Inc.

- Key Task Leader – Geotechnical: Fugro Consultants, Inc.

- Key Task Leader – Hydraulics and Hydrology: Omega Engineers, Inc.

- Key Task Leader – Structural: Walter P. Moore and Associates, Inc.

- Key Task Leader – Environmental: Hicks & Company Environmental/Archaeological Consultants

- Key Task Leader – Utilities: CSJ Engineering Associates LLC

- Key Task Leader – Right of Way: Universal Field Services, Inc.