

**WASHINGTON COUNTY, MARYLAND
DIVISION OF ENGINEERING**

BID DOCUMENT

APRIL 2019

BACK ROAD REPAIR

CONTRACT NO. RD-BR-272-10

PROJECT NO. 10-272

BOARD OF COUNTY COMMISSIONERS

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Robert Slocum, P.E., County Administrator

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DESIGN ENGINEERS:

Washington County
Division of Engineering
80 West Baltimore Street
Hagerstown, MD
240-313-2460

SET NO.: _____

BACK ROAD CULVERT AND ROAD REPAIR
COUNTY CONTRACT NO. RD-BR-272-10

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**TITLE PAGE
“THE PROJECT”
BACK ROAD REPAIR
IN
WASHINGTON COUNTY, MARYLAND**

This request for proposal contains proposed roadway work, stream channel repair/restoration, and structure repairs due to severe storms and flooding. Several line items have been listed as **ADD ALTERNATES**.

The project involves a design/build contract for the construction of an asphalt roadway (525 linear feet) to act as a low water crossing to accommodate the flow of water overtopping the roadway. The roadway construction shall consist of natural stream channel repair and stabilization measures. The project shall also include roadway shoulder repairs (approximately 725 linear feet) and fill placement to repair erosion around an existing structure. The asphalt approaches to the roadway are also in need of repair. The work includes engineering design, permitting, and construction.

This project contains multiple **ADD ALTERNATES**, for pricing purposes, which may or may not be used in the contract. The contract will be awarded to the lowest responsive and responsible bidder who has the lowest base bid with any Add Alternate(s) selected; upon evaluation and review of the available budget. Any combination of Add Alternates may be selected.

ADD ALTERNATE 1 – The construction of a concrete road, in lieu of an asphalt road, (approximately 525 linear feet) to act as a low water crossing to accommodate the flow of water overtopping the roadway. The road construction shall consist of natural stream channel repair and stabilization measures. The work includes engineering design, permitting, and concrete road construction. The Add Alternate price shall be the difference or increase in cost to construct a concrete road in lieu of an asphalt road.

Example:

Site 1: Asphalt Road Repairs = \$250,000

Add Alternate 1: Concrete Road in Lieu of Asphalt = \$400,000

\$400,000 minus \$250,000 = \$150,000 for Add Alternate 1

ADD ALTERNATE 2 – The replacement of an existing single span concrete slab bridge (7'+/-) long with a new structure/culvert. The work includes engineering design, permitting, removal of the existing single span bridge, and replacement with a new structure/culvert and approach paving.

ADD ALTERNATE 3 - The construction of an additional structure/culvert (approximately 8'x4'), at the recommendation of the Maryland Department of the Environment. The work includes engineering design, permitting, construction of a new structure/culvert, and approach paving.

All work on this project shall be done in accordance with the requirements of the Maryland Department of Transportation, State Highway Administration "Standard Specifications for Construction and Materials" (hereinafter referred to as "MDOT SHA Standard Specifications") dated July 2018, as amended to the date of advertisement for this Proposal; revisions thereof, or additions thereto, and the Special Provisions included in this Invitation for Bids.

All standard details and standard plates referred to shall be those of Maryland State Highway Administration's Book of Standards – for Highway & Incidental Structures (hereafter referred to as the "Book of Standards") and the latest revision thereto.

All references to the State of Maryland, State, State Roads Commission, State Highway Administration, or Commission in the Special Provisions, the MDOT SHA Standard Specifications, or the Book of Standards shall be construed to refer to Washington County, Maryland.

All references to the Engineer shall be interpreted to refer to the County's assigned Project Representative within the Washington County Division of Engineering.

All references to officials of Maryland State government, or the Maryland State Highway Administration in the Special Provisions, the MDOT SHA Specifications or the Book of Standards shall be interpreted to refer to the appropriate official in Washington County government.

The Invitation to Bid, the General Conditions, and the Special Provisions are supplemental to the MDOT SHA Standard Specifications and form part of the Contract. In case of a conflict between the MDOT SHA Standard Specifications and the Special Provisions, the Special Provisions shall govern.

In case of conflict between the Book of Standards and the plans, the plans shall govern. In case of conflict between the plans and the Special Provisions, the Special Provisions shall govern.

In addition to the above, the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control, Water Resources Administration Standard Details, Maryland 378 Pond Specifications, and AASHTO requirements for materials shall apply. And all stormwater management structures to be built as part of this project shall be constructed in strict accordance with the Stormwater Management Ordinance for Washington County, Maryland. (This document can be found on the Internet at http://www.washco-md.net/washco_2/pdf_files/legan/fnlrwd2.pdf)

PUBLIC UTILITIES

The utility companies listed below may have existing installations within the limits of "THE PROJECT". It is necessary that the Contractor notify the utility company(ies) a minimum forty-eight (48) hours in advance of working in the vicinity of any installation in order that the location of existing utilities may be staked and/or protected.

- (1) Allegheny Power
- (2) Hagerstown Water & Sewer Dept.

- | | | | |
|-----|-------------------------------------------------------------------------------------|-----|-------------------------------------------------------------------------------------------------------|
| | P. O. Box 397
Williamsport, MD 21795
(301) 582-5270 | | 1 Clean Water Circle
Hagerstown, MD 21740
(301) 790-3200 |
| (3) | Verizon
1710 Underpass Way
Hagerstown, MD 21740
(301) 791-9950 | (4) | Wash. Co. Dept. of Water Quality
16232 Elliott Parkway
Williamsport, MD 21795
(240) 313-2600 |
| (5) | Antietam Cable T.V.
1000 Willow Circle
Hagerstown, MD 21740
(301) 797-5000 | (6) | Columbia Gas of Maryland
55 Sycamore Street
Hagerstown, MD 21740-6012
(240) 420-2020 |
| (7) | Lumos Networks
1 Lumos Plaza
Waynesboro, VA
(800) 320-6144 | (8) | Miss Utility
(800) 257-7777 |

Also refer to General Conditions, Section 5 – Control Of The Work and Section 7 – Legal Relations And Responsibility To The Public

MATERIAL TESTING

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The Contractor shall be responsible for the field/laboratory testing as described below.

A. CONCRETE:

The Contractor shall be responsible for sampling, molding, curing, transporting, and testing concrete test specimen for compressive strength analysis in conformance with AASHTO/ASTM Specifications. As a minimum, the Contractor shall take four (4) concrete cylinders per pour for each mix design and/or as directed by the Engineer. The field concrete testing shall include, slump test, air content test, and temperature information on freshly mixed concrete. All necessary paper work shall be prepared by the Contractor and sent along with the concrete test cylinders to a laboratory approved by the Engineer. The specimens shall not be transported from field to laboratory before completion of the initial curing. During transportation, specimens shall be cured and protected with suitable cushioning material to prevent damage from jarring and damage by freezing temperature, or moisture loss.

For **compressive strength testing** each set of concrete cylinders shall be tested as follows:

- One (1) concrete cylinder shall be broken at seven (7) days.
- One (1) concrete cylinder shall be broken at fourteen (14) days.

Two (2) concrete cylinders shall be broken at twenty-eight (28) days.

The compressive strength test results report, for each concrete cylinder, shall be submitted to the Engineer no later than 48 hours after the actual break time period. The Engineer may change the test frequency for the concrete cylinder breaks as noted above.

All cast-in-place concrete quantities shall be computed using the as-planned dimensions shown on the plans or directed by the Engineer. There will be no increase allowed if the Contractor elects to construct the foundations larger than the planned dimensions for ease of construction. The Contractor shall submit all concrete tickets to the Engineer along with the request for payment.

B. SOILS:

All soil samples (on and off-site) shall be tested by the Contractor in a laboratory approved by the Engineer. This includes but is not limited to, sieve analysis with hydrometer, Atterburg limits, moisture-density relationship test (AASHTO T-180), and any other pertinent test necessary for soil(s) classification. The testing shall apply to all Borrow Material(s), and all on-site suitable material(s) excavated which may be used in the construction of embankments. The Contractor shall submit all test results to the Engineer for approval prior to its placement. The test types shall be selected by the Engineer and shall be performed in accordance with AASHTO/ASTM Standards.

The Contractor shall be responsible for in-place density testing by a nuclear gauge (test at every 500 LF per each lift as directed by the Engineer). Results shall be submitted to the Engineer for review.

The Contractor shall retain a Maryland licensed Geotechnical Engineer to verify the soil net bearing pressure prior to placement of the concrete footings. Should the actual allowable bearing pressure at the planned bottom of footing elevation be found to be less than assumed, the width or depth of the footing shall be adjusted at the direction of the Engineer. The Geotechnical Engineer must submit a report of the findings to the Engineer for review.

If the Contractor elects to use a borrow pit, he shall stakeout the area and provide the necessary soil analysis and test results from a maximum density test in accordance with AASHTO T180 by a Soils Laboratory approved by the Owner.

C. AGGREGATES:

The Contractor shall provide the Owner all laboratory tests for aggregates (fine & coarse) for quality control purposes prior to its placement. The tests shall include, but not be limited to, sieve analysis, moisture-density relationship, and specific gravity tests (if required by the Engineer). All tests shall be performed from a finished product at the quarry in accordance with AASHTO/ASTM

Standards. The Contractor shall be responsible for in-place density testing by a nuclear gauge (test at every 500 LF per each lift as directed by the Engineer). Results shall be submitted to the Engineer for review. Testing shall be incidental to the other item(s) being tested.

D. ASPHALT:

The nuclear/core method shall be utilized with a minimum of four (4) nuclear density tests required. The Contractor shall comply with these testing standards established for the quality control, and must submit the test results to the Owner for review within 24 hours after they are received. The Owner reserves the right to stop the paving operation and ask for corrections if the test results do not meet the Specification Standards.

Payment for all material testing and geotechnical engineering services shall be incidental to the pertinent pay items specified in the Contract.

GOVERNMENT DEBARMENT AND SUSPENSION (TITLE 40 PART 32)

OMB Guidance in 2 CFR part 180

Persons who receive award of a subgrant, contract, or subcontract exceeding \$25,000 must not award lower tier transactions to entities that are debarred, suspended, proposed for debarment, excluded or disqualified under the nonprocurement common rule.

When a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity is not suspended or debarred or otherwise excluded. This verification may be accomplished by:

- (a) Checking the Excluded Party List System (EPLS) maintained by the General Services Administration (GSA);
- (b) Collecting a certification from that entity; or
- (c) Adding a clause or condition to the covered transaction with that entity (2 CFR section 180.300).

The information contained in the EPLS is available in printed and electronic formats. The printed version is published monthly. Copies may be obtained by purchasing a yearly subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by calling the Government Printing Office Inquiry and Order Desk at (202) 783-3238. The electronic version can be accessed on the Internet at <http://epls.arnet.gov>.

INVITATION TO BID

BACK ROAD REPAIR

COUNTY CONTRACT NO. RD-BR-272-10

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INVITATION TO BID

ADVERTISEMENT

BACK ROAD REPAIR

COUNTY CONTRACT NO. RD-BR-272-10

The Board of County Commissioners of Washington County, Maryland, will accept sealed bids for the **BACK ROAD REPAIR, COUNTY CONTRACT NO. RD-BR-272-10 UNTIL FRIDAY, MAY 3, 2019 at 11 a.m.**

For further information, please refer to the Washington County website: www.washco-md.net, and click on "Engineering Bid Listing" or contact the Division of Engineering, Chief of Design, **Pam Mohn, at telephone 240-313-2449.**

**BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND**

BY: 
Robert Slocum, County Administrator

Publish: **APRIL 3, 2019**

Invoice: Washington County Division of Engineering
80 W. Baltimore Street
Hagerstown, MD 21740-6003

Telephone: 240-313-2460

INVITATION TO BID

BACK ROAD REPAIR

The Board of County Commissioners of Washington County, Maryland, will accept sealed bids for the **BACK ROAD REPAIR, CONTRACT NO. RD-BR-272-10**. Bids will be received and time-stamped in the **Division of Engineering**, County Administrative Annex, 80 West Baltimore Street, Hagerstown, MD 21740-6003, until **11:00 a.m. Friday, May 3, 2019**, after which time they will be publicly opened in a conference room of the County Administrative Annex. Bids received after this time will be returned unopened.

The **BACK ROAD REPAIR PROJECT** is generally described as follows: **a design/build contract for the construction of an asphalt roadway (525 linear feet) to act as a low water crossing to accommodate the flow of water overtopping the roadway. The roadway construction shall consist of natural stream channel stabilization methods. The project shall also include roadway shoulder repairs (approximately 725 linear feet) and fill placement to repair erosion around wingwalls of an existing structure. The asphalt approaches to the roadway are also in need of repair. The work includes engineering design, permitting, and construction.**

This project contains multiple **ADD ALTERNATES**, for pricing purposes, which may or may not be used in the contract. The contract will be awarded to the lowest responsive and responsible bidder who has the lowest base bid with any Add Alternate(s) selected; upon evaluation and review of the available budget. Any combination of Add Alternates may be selected.

All work on this project shall be done in accordance with the MDOT SHA Standard Specifications and the special provisions contained in this bid document. This Project Classification is Cost Group Letter Class "C," \$500,001 Up to \$1,000,000.

Qualified Bidders may download the Invitation to Bid Document from the **Washington County Division of Engineering Invitation to Bid Webpage**,
<https://www.washco-md.net/index.php/2017/06/06/ecm-eng-itblist/>

Bid security in the form of a cashier's check, certified check, or bid bond in the amount of five percent (5%) of the total bid amount shall be submitted with Contractor's bid. Bid bonds shall be made payable to the Board of County Commissioners of Washington County, Maryland. The successful Bidder will be required to furnish satisfactory Payment and Performance Bonds for the full amount of the Contract. Bids shall be executed on bid forms provided with the bidding documents in accordance with the Instructions to Bidders.

The County may make such investigations as he deems necessary to determine the ability of the Bidder to perform the work, and prospective Bidders shall be required to furnish to the County's representative all such information as may be requested. The County reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the County that such Bidder is properly qualified to carry out the obligation of the Contract and to complete the work contemplated therein.

A Pre-Bid Conference for the project will be held **Wednesday, April 10, 2019 at 11:00 A.M.** local time in a conference room at the **Division of Engineering, County Administrative Annex, 80 West**

Baltimore Street, Hagerstown, MD. All prospective Bidders are encouraged to attend.

Washington County shall make positive efforts to utilize Disadvantaged Business Enterprises for its supplies and services and shall allow these sources the maximum feasible opportunity to compete for contracts. The Board of County Commissioners does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services. Individuals requiring special accommodations are requested to contact the Washington County Department of Capital Projects at 240-313-2460 Voice, TDD Dial 711, to make arrangements no later than seven (7) calendar days prior to the Pre-Bid Conference and/or Bid Opening.

The County Commissioners of Washington County, Maryland, reserve the right to reject any and/or all bids, to waive any informalities or irregularities in the bidding, and to take whatever action is to the best interest of Washington County.

ITB 1.01 BID DUE DATE

The Board of County Commissioners of Washington County, Maryland, will accept sealed bids for the **BACK ROAD REPAIR**. Bids will be received and time-stamped in the **Division of Engineering**, County Administrative Annex, 80 West Baltimore Street, Hagerstown, MD 21740-6003, until **11:00 A.M., Friday, May 3, 2019**, after which time they will be publicly opened in a conference room of the County Administrative Annex. Bids received after this time will be returned unopened. Inquires regarding this bid should be directed to the County's Chief of Design, **Pam Mohn**, at telephone **240-313-2449**, Fax 240-313-2401 or email ECBidquestions@washco-md.net.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions

ITB 1.02 BID DOCUMENTS

Qualified Bidders may download the Invitation to Bid Document from the **Washington County Division of Engineering Invitation to Bid Webpage**, <https://www.washco-md.net/index.php/2017/06/06/ecm-eng-itblast/>

Neither the County nor any Representative of the County has any responsibility for the accuracy, completeness or sufficiency of any bid documents obtained from any source other than the source indicated in these documents. Obtaining these documents from any other source(s) may result in obtaining incomplete and inaccurate information. Obtaining these documents for any source other than directly from the source listed herein may also result in failure to receive any addenda, corrections, or other revisions to these documents that may be issued.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions

ITB 1.03 PREPARATION OF BID

Bids shall be executed on the separate copy of BID FORMS provided with the bid document. This bid document includes a sample set of BID FORMS. These are for the convenience of Bidders and are not to be detached from the Specifications, filled out, or executed. Separate copies of the BID FORMS are furnished for that purpose. Each bid proposal shall be submitted on the BID FORMS as set forth in these Specifications, complete with bid security made payable to the Board of County Commissioners of Washington County, Maryland.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions

ITB 1.04 RECEIPT AND OPENING OF BIDS

Each bid must be submitted in a sealed envelope bearing on the outside the name of the Bidder, the Bidder's address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified.

The envelopes containing the bids must be sealed and addressed to the Division of Engineering, and designated as **BACK ROAD REPAIR, CONTRACT NO. RD-BR-272-10.**

The County may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities. After opening of bids, but before award, the County reserves the right to reject in whole or part, any or all bids if it is determined that this action is fiscally advantageous or otherwise in the County's best interest. The County reserves the right to seek additional funding and/or re-design the project and seek new bids. A notice of rejection shall be sent to all Bidders that submitted rejected bids.

Any bid may be withdrawn prior to the scheduled time for the opening of the bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No Bidder may withdraw a bid within one hundred twenty (120) calendar days after the actual date of the BID opening.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions and Section 3 – Award and Execution of Contract

ITB 1.05 BID SECURITY

Each bid must be accompanied by bid security in the form of a bond, bank certified check, bank cashier's check, or a bank treasurer's check in the amount of five percent (5%) of the total bid made payable to the Board of County Commissioners of Washington County, Maryland.

All Bid Securities, except those of the three (3) lowest Bidders, will be returned immediately following the bid opening and review of the bids. The Bid Security of the three (3) lowest Bidders will be returned promptly after the execution of the Contract and submission and approval of the Performance and Payment bonds.

If no award has been made within ninety (90) calendar days after the date of the opening of the bids, Bid Security will be returned to the three (3) lowest Bidders. The successful Bidder will be required to furnish satisfactory Payment and Performance Bonds for the full amount of the Contract.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions and Section 3 – Award and Execution of Contract

ITB 1.06 PRE-BID CONFERENCE

A Pre-Bid Conference for the project will be held **Wednesday, April 10, 2019** at **11:00 A.M.** local time in a conference room at the Division of Engineering, County Administrative Annex, 80 West Baltimore Street, Hagerstown, MD 21740-6003. All prospective Bidders are encouraged to attend.

ITB 1.07 EQUAL OPPORTUNITY

Washington County shall make positive efforts to utilize Disadvantaged Business Enterprises for its supplies and services and shall allow these sources the maximum feasible opportunity to compete for contracts. The Board of County Commissioners does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services. Individuals requiring special accommodations are requested to contact the Washington County Engineering Department at 240-313-2460 Voice, TDD Dial 711, to make arrangements no later than seven (7) calendar days prior to the Pre-Bid Conference and/or Bid Opening.

ITB 1.08 EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Contract, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure the applicants are employed, and that employees are treated, during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

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

The Contractor will, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

ITB 1.09 QUALIFICATIONS OF BIDDER

The County may make such investigations as deemed necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the County all such information and data for this purpose as the County may request. The County reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the County that such Bidder is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein. Conditional bids will not be accepted.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions

ITB 1.10 TIME OF COMPLETION AND LIQUIDATED DAMAGES

Bidder must agree to commence work within ten (10) calendar days of receipt of written “Notice to Proceed” by the County and to fully complete the project within **300** consecutive calendar days thereafter. Bidder must also agree to pay as liquidated damages, the sum of **\$500.00** for each consecutive calendar day thereafter as hereinafter provided in the General Conditions.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions, Section 3 – Award and Execution of Contract, and Section 8 – Prosecution and Progress

DISREGARD AND STRIKE from General Conditions, GC-8.05 “Limitations of Operation”, Item (c) “Work on Legal Holidays”, Page GC-77 in its entirety.

ITB 1.11 ADDENDA AND INTERPRETATIONS

No interpretations of the meaning of the Plans, Specifications, or other pre-bid documents will be made to any Bidder orally. Every request for such interpretation shall be made to the County in writing, addressed to the Division of Engineering, County Administrative Annex, 80 West Baltimore Street, Hagerstown, MD 21740-6003, and to be given consideration must be received, in writing **no later than 4:30 P.M., Friday, April 19, 2019**. Faxed inquiries are acceptable, if received by the date and time for the deadline for questions.

The County will maintain a list of “Plan Holders” throughout the bidding phase, complete with the full mailing address, contact person with e-mail address, and phone / fax numbers of those Contractor’s requesting and being in possession of the bid documents. If addenda are issued, any and all addenda will be in written format and e-mailed not later than three (3) calendar days prior to the date fixed for the opening of bids to all Plan Holders pursuant to the County’s Plan Holders List.

The County will also publish any issued addenda and keep current the County's Plan Holders List on the County's web site. Click on "Engineering Department Bid Listing" to ascertain this information.

Any addenda information when printed that is larger than 11" x 17" will automatically be mailed to all Contractors listed on the County's Plan Holders List.

Failure of any Bidder to receive any such addendum or interpretation shall not relieve such Bidder from any obligation under the bid as submitted. All addenda so issued shall become part of the Contract Documents.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions

ITB 1.12 CONDITIONS OF WORK

At the time of the opening of bids, each Bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the Plans and Contract Documents (including all addenda). The failure or omission of any Bidder to examine any form, instrument, or document shall in no way relieve any Bidder from any obligation with respect to its bid.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions, Section 3 - Award and Execution of Contract, and Section 4 – Scope of Work

ITB 1.13 PLANS - SPECIFICATIONS - CONTRACT DOCUMENTS

Upon award, the successful Contractor will receive up to five (5) sets of Contract Documents (drawings, plan sheets and specifications) free of charge. Any additional sets required by the Contractor may be purchased at the price stated in paragraph ITB 1.02 "Bid Documents".

Also refer to General Conditions, Section 3 – Award and Execution of Contract

ITB 1.14 AWARD

The total base bid, plus any ADD ALTERNATES, will be used as a basis for evaluation of the bids and award of the Contract. Any combination of Add Alternates may be selected. If an award of contract is made, it will be made to the lowest, responsive, responsible Bidder within the time specified for bids to remain irrevocable.

Also refer to General Conditions, Section 2 – Bidding Requirements and Conditions and Section 3 – Award and Execution of Contract

ITB 1.15 MINIMUM WAGES

Nothing in this contract shall be construed as waiving the applicable requirements of the Federal Minimum Wage as established in the Fair Labor Standards Act. (*Refer to General Conditions, Section 8 – Prosecution and Progress*).

ITB 1.16 "OR EQUAL" CLAUSE

Whenever a material, article or piece of equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

Also refer to General Conditions, Section 6 – Control of Material and Section 8 – Prosecution and Progress

ITB 1.17 PATENTS

The Contractor shall hold and save the County and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the County, unless otherwise specifically stipulated in the Contract documents.

ITB 1.18 SUPERINTENDENCE BY CONTRACTOR

The Contractor shall employ a competent Superintendent or Foreman who shall be in attendance at the Project site during performance of the Work. The Superintendent shall represent the Contractor, and communications given to the Superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Superintendent shall be satisfactory to the County, and the County shall have the right to require the Contractor to dismiss from the project any Superintendent with personnel satisfactory to the county, at no additional costs. The Contractor shall not replace the Superintendent without the consent of the County except with personnel satisfactory to the County in all respects.

Also refer to General Conditions Section 7 – Legal Relations and Responsibility to the

Public

ITB 1.19 SEPARATE CONTRACTS

The Contractor shall coordinate its operations with those of other Contractors. Cooperation will be required on the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including its subcontractors, shall keep informed of the progress and the detail work of other Contractors and shall notify the Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by it of the status of the work as being satisfactory for proper coordination with its work.

Also refer to General Conditions Section 5 – Control of the Work and Section 6 – Control of Material

ITB 1.20 MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts of neglect on the part of the Contractor, any other contractors or any subcontractor shall suffer loss of damage on work, the Contractor agrees to settle with such other contractor or subcontractor by agreement or arbitration if such other contractor or subcontractor will so settle. If such other contractor or subcontractor shall assert any claim against the County on account of any damage alleged to have been sustained, the County shall notify the Contractor, who shall indemnify and save harmless the County against any such claim.

Also refer to General Conditions Section 5 – Control of the Work and Section 6 – Control of Material

ITB 1.21 LAND AND RIGHT-OF-WAYS

The work will occur within County right-of-way and the County has obtained necessary right-of-entry agreements for the area occupied by the proposed improvements (Exhibit 05).

ITB 1.22 PAYMENT TO CONTRACTOR

The County shall make a Progress Payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under the Contract. To insure proper performance of the Contract, the County shall retain ten percent (10%) of the amount of each estimate until final completion and acceptance of all work covered by the Contract.

The Contractor shall submit the pencil copy of each monthly estimate to the County for

review and approval. The hard copies shall be submitted to the Project Manager, Washington County Division of Engineering, along with all necessary attachments supporting his claim. The Contractor shall also provide an update of the project schedule to the County with the submission of each monthly request for payment.

The County reserves the right to withhold all or any part thereof of monies due, if in the opinion of the County, the completed work is found not to be in conformance with the Plans and Specifications, defective and/or damaged by negligence by the Contractor and/or his employees. The above shall also apply to previously approved work by the Inspector, which may require correction/replacement or become defective due to negligence and/or workmanship by the Contractor. This shall also include unsatisfactory prosecution of the work, failure to furnish required submittals, and/or unapproved testing procedures. In preparing estimates, the material delivered on the site and preparatory work done may be taken into consideration.

All material and work covered by partial payments made shall thereupon become the sole property of the County, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the County to require fulfillment of all the terms of the Contract.

The Contractor agrees that it will indemnify and save the County harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. The Contractor shall, at the County's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have to be paid, discharged, or waived. If the Contractor fails to do so, then the County may, after having served written notice on the said Contractor, either pay unpaid bills, of which the County has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the County to either the Contractor or its Surety.

In paying any unpaid bills of the Contractor, the County shall be deemed the agent of the Contract, and any payment so made by the County, shall be considered as a payment made under the Contract by the County to the Contractor, and the County shall not be liable to the Contractor for any such payment made in good faith.

Also refer to General Conditions Section 2 – Bidding Requirements and Conditions, Section 3 – Award and Execution of Contract, Section 4 – Scope of Work, Section 8 – Prosecution and Progress, and Section 9 – Payment

ITB 1.23 ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the County of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the County and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or its Sureties from any obligation under this Contract or the Performance and Payment Bond. The assessment of liquidated damages (if any) shall be deducted from the Contractor's Final Payment.

As a condition precedent to final payment, the Contractor shall execute a general release of all claims arising out of the contract. (*Refer to GC-9.04 Substantial Completion and Final Payment*).

Also refer to General Conditions Section 2 – Bidding Requirements and Conditions, Section 3 – Award and Execution of Contract, Section 4 – Scope of Work, and Section 9 – Payment

ITB 1.24 GENERAL GUARANTY

Neither the final payment nor any provision on the Contract documents nor partial or entire occupancy of the premises by the County shall constitute an acceptance of work not done in accordance with the Contract documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting there from, which shall appear within a period of one (1) year from the date of final acceptance of work unless a shorter period is specified. The County will give notice of observed defects with reasonable promptness.

Also refer to General Conditions Section 4 – Scope of Work, Section 8 - Prosecution and Progress, and Section 9 – Payment

ITB 1.25 SALES TAX

The County is exempt from State of Maryland Sales Tax. The County's Maryland Sales Tax Exemption Number is 3000129 2. However, the Bidder is responsible for making any necessary inquiries and investigations with regulating state agencies to obtain a determination of tax exemptions in his/her bid.

Also refer to General Conditions Section 2 – Bidding Requirements and Conditions, Section 3 – Award and Execution of Contract, Section 7 – Legal Relations and Responsibility to the Public

ITB 1.26 NOTICE OF POLITICAL CONTRIBUTIONS

In accordance with Maryland Code, State Finance and Procurement Article, §17-402, the Bidder shall comply with Maryland Code, Election Law Article, Title 14, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or any incorporated municipality, or their agencies during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Administrative Board of Election Laws a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Administrative Board of Election Laws: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality or their agencies, and shall cover the proceeding two (2) calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6 month period ending July 31.

Also refer to General Conditions Section 2 – Bidding Requirements and Conditions

ITB 1.27 PAYMENT OF COUNTY AND MUNICIPAL TAXES

Effective October 1, 1993, in compliance with Section 1-106(b)(3) of the Code of the Public Local Laws of Washington County, Maryland, “If a bidder has not paid all taxes owed to the County or a municipal corporation in the County, the County Commissioners may reject the bidder’s bid.”

Also refer to General Conditions Section 2 – Bidding Requirements and Conditions

General Conditions

General Conditions of Contract Between the County and Design-Builder

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Article 1 - General

1.1 Mutual Obligations

1.1.1 County and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions

1.2.1 For the purposes of the Contract Documents, the following words and terms shall have the meanings specified below (other words and abbreviations that have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings), provided, however, that capitalized terms defined in other Contract Documents, including but not limited to the Agreement, shall have the meanings specified in such document.

- .1 *Agreement* refers to the executed Lump Sum Design-Build Agreement Between the County and Design-Builder.
- .2 *Agreement Date* is the date that the Agreement is executed by both parties.
- .3 *Business Day(s)*, whether capitalized or not, means any day(s) other than a Saturday, Sunday, Washington County Government holiday, or a day when the New York Stock Exchange or banks are authorized or required to close in New York, New York.
- .4 *Contract Documents* refer to those documents enumerated in the agreement between the Owner and Design-Builder and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Performance Requirements, Scope of Work (Task Order), Addenda issued prior to execution of an Agreement and modifications issued after execution of the Contract. A modification is a written amendment to the Contract signed by both parties which may be in the form of a change order, construction directive or written order for a minor change in the work issued by the Owner..
- .5 *Contractor* shall mean Design-Builder.
- .6 *Day* or *Days*, whether capitalized or not, shall mean calendar days unless otherwise specifically noted in the Contract Documents.
- .7 *County* means the Board of County Commissioners for Washington County, Maryland, a body corporate and politic in the State of Maryland acting through the County's representative which is intended to be the County's Director of **Engineering**, who acts directly or through his duly authorized representative, the representative acts within the scope of the particular duties assigned to him or the authority given to him.

- .8 *County's Project Criteria* are developed by or for the County to describe County's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. The County's Project Criteria are included in the Request for Proposals and may include conceptual documents, design criteria, performance requirements and other project-specific technical materials and requirements.
- .8 *Design Consultant* is a qualified, licensed design professional, eligible to provide professional engineering and/or land surveying services in the state of Maryland, who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder or Subcontractor, to furnish design services required under the Contract Documents.
- .10 *General Conditions of Contract (or General Conditions)* refer to this document.
- .11 *Governmental Approval* means any authorization, consent, approval, license, lease, ruling, permit, certification, exemption, or registration by or with any Governmental Unit.
- .12 *Governmental Unit* means any national, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Work, the Project or the Parties; provided, however, that the term "Governmental Unit" shall not be construed to include the County, unless specifically mentioned.
- .13 *Hazardous Environmental Condition* means the presence at the Site of Hazardous Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto on connection with the Work.
- .14 *Hazardous Materials* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.
- .15 *Indemnatee* means and includes the Board of County Commissioners for Washington County, Maryland, their employees, agents or direct contractor's not affiliated with the Design-Builder.
- .16 *Interim Milestone(s)* is completion and delivery date(s) for parts of the work specified by the Contract Documents.
- .17 *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any Governmental Unit.

- .18 *Proposal* means that document submitted by Design-Builder pursuant to the RFP and identified in Article 2 of the Agreement.
- .19 *QA Manager (“QAM”)* is the Design-Builder’s designee responsible for providing Quality Assurance and Quality Control of the Work, and ensuring conformance with the Contract Documents.
- .20 *QA/QC Plan* is a plan that details how the Design-Builder will provide quality control (“QC”) and quality assurance (“QA”) for both the design and construction elements of the project, obtain samples for Design-Builder quality control testing, perform tests for Design-Builder quality control, provide inspection, and exercise management control (e.g. quality assurance testing) to ensure the work conforms to the contract requirements.
- .21 *Request for Proposals (“RFP”)* is the document, inclusive of all of its parts, addenda, County’s Project Criteria, and any other document that is attached thereto or incorporated therein by reference.
- .22 *RFP Documents* refer to those documents identified in Part 1, Instructions for Offerors, Section 2.9.1 of the RFP.
- .23 *Separate Contractor* means a contractor retained by the County other than the Design-Builder to perform work or to provide services or materials in connection with the Project.
- .24 *Site* is the land or premises on which the Project is located.
- .25 *Standard Drawings* are the applicable drawings contained in the Standards and Specifications for Public Works Construction, by Washington County, MD, current as of the date of the Agreement. Where no standard drawing exists from Washington County, the standard drawings and details published by the Maryland Department of Transportation, latest edition shall apply.
- .26 *Standard Specifications* are the Maryland Department of Transportation, *latest edition*.
- .27 *State* means the State of Maryland.
- .28 *State Highway* means the Maryland State Highway Administration.
- .29 *Subcontract* means any and all agreements between Design-Builder and its Subcontractors and other agreements between Subcontractors and Sub-subcontractors (and/or any other lower tier subcontractors), it being the intent that all this term encompasses all agreements deriving directly or indirectly from Design-Builder, in connection with the performance of the Work.

- .30 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.
- .31 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.
- .32 *Substantial Completion* is the date on which the Work, or an agreed upon portion of the Work, is complete in accordance with the Contract Documents so that County can occupy and use the Project (or a portion thereof, if the Contract Documents provide for acceptance of portions of the Project upon Substantial Completion of such portions) for its intended purposes. It is intended that, as of Substantial Completion, the County and the public (traveling and general) will have full and unrestricted use and benefit of the Work (or, if applicable, an agreed upon portion of the Work), from both an operational and safety standpoint, with only minor incidental Work remaining to be performed, corrected or repaired.
- .33 *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.
- .34 *Work Breakdown Structure ("WBS")* is a hierarchically-structured grouping of project elements that organizes and defines the total scope of the Project. Each descending level is an increasingly detailed definition of a project component. Project components may be products (a product-oriented WBS) or tasks (a task-oriented WBS).
- .35 *Work Package* is a deliverable at the lowest level of the WBS. May be divided into activities and used to identify and control work flows in the organization.

Article 2 - Design-Builder's Services and Responsibilities

2.1 General

2.1.1 Design-Builder's Representative shall be reasonably available to County and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with County and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only by the mutual agreement of County and Design-Builder.

2.1.2 Unless stipulated otherwise, the parties will meet within seven (7) days after the Agreement Date, and also will meet within seven (7) days after Date of Notice to Proceed, to discuss issues affecting the administration of the Work and to implement the necessary procedures, including

those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.1.3 Design-Builder shall provide County with the Baseline Schedule, updates and monthly reports.

2.1.4 Design-Builder shall be responsible for securing, executing and paying all costs associated with the procurement of all agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work, outside of the normal project right-of-way limits as may be necessary based on the Contractor's means and methods of construction. The County shall provide all right-of-way acquisition services associated with this Project.

2.1.5 Design-Builder shall provide management for the Work based on an organizational chart provided by the Contractor with his proposal. Design-Builder acknowledges the importance of its Design-Build Project Manager, Design Manager, Quality Assurance Manager, Construction Manager (collectively, "Key Personnel"). None of the Key Personnel may be withdrawn from the Project without prior written approval of County, with it being understood and agreed that Design-Builder will provide County with at least thirty (30) days written notice of any request to withdraw any Key Personnel. Design-Builder shall remove or replace, or have removed or replaced, any personnel performing the Work if County has a reasonable objection to such person.

2.1.6 If Design-Builder wishes to deviate from the right-of-way limits shown on the approved Project right-of-way plans for property, such deviations will be subject to County's prior written approval. It will be the responsibility of Design-Builder to coordinate directly with the affected property owners to acquire such right-of-way. Design-Builder shall be responsible for assuming all risks associated with exceeding such right-of-way limits, including any public hearings that may be required, and no modifications to the Contract Price or Contract Time(s) will be granted or considered.

2.1.7 Design-Builder shall submit its QA/QC Plan to the County for review and approval at the meeting held after the Date of Notice to Proceed as set forth in Section 2.1.2. Along with the QA/QC Plan submittal, the QA Manger shall provide a presentation of the QA/QC Plan utilizing project related scenarios.

2.1.8 Design-Builder shall participate in progress meetings at intervals agreed to by both the Contractor and the Owner, not exceeding monthly intervals. During such meetings, progress during the prior month shall be reviewed. The Design-Builder shall collect information from any key subcontractors/sub-consultant responsible for work completed during the specified duration and work scheduled during the upcoming reporting duration. These meetings shall be attended by the design-build project manager, construction manager, quality assurance manager and design manager, as well as other key personnel from the design and construction firms defined within the proposal and the County representative's. Design-Builder shall be responsible for preparing, maintaining and distributing minutes of the meetings to all attendees for review. The meeting minutes shall be provided to the County within five (5) days of the monthly progress meeting.

2.2 Scope Validation and Identification of Scope Issues

2.2.1 Scope Validation Period. The term “Scope Validation Period” shall refer to the fourteen (14) day period following the Date of the Notice to Proceed. During the Scope Validation Period, Design-Builder shall thoroughly review and compare all of the then-existing Contract Documents, including without limitation the RFP Documents and the Proposal, to verify and validate Design-Builder’s proposed design concept and identify any errors, omissions, inconsistencies, constructability problems, Site conditions or any other defects or concerns of any kind (collectively referred to as “Scope Issues”) that may affect Design-Builder’s ability to complete its proposed design concept within the Contract Price and Contract Time(s). If Design-Builder finds any Scope Issues, it shall notify County in writing of such findings within the Scope Validation Period. Upon such notice, the Parties shall promptly meet and confer to discuss the resolution of such issues. If a Scope Issue could not have reasonably been identified by Design-Builder prior to the Agreement Date, and if resolution of the issue materially impacts Design-Builder’s price or time to perform the Work, Design-Builder shall be entitled to submit a request for Change order, and County shall have the right to act upon such request, in accordance with Article 9 hereof. Notwithstanding anything to the contrary in the Contract Documents or as a matter of law, Design-Builder shall have the burden of proving that the alleged Scope Issue could not have been reasonably identified prior to the Agreement Date and that such Scope Issue materially impacts its price or time to perform the Work.

2.2.2 Design-Builder’s Assumption of Risk of Scope Issues. The Parties acknowledge that the purpose of the Scope Validation Period is to enable Design-Builder to identify those Scope Issues that could not reasonably be identified prior to the Agreement Date. By executing this Agreement, Design-Builder acknowledges that the Scope Validation Period is a reasonable time to enable Design-Builder to identify Scope Issues that will materially impact Design-Builder’s price or time to perform the Work. Following completion of the Scope Validation Period, with the sole exception of those Scope Issues identified during the Scope Validation Period and subject to valid requests for Change orders in accordance with Section 2.2.1 above, the Parties agree as follows:

- .1** Design-Builder shall assume and accept all risks, costs, and responsibilities of any Scope Issue arising from or relating to the Contract Documents, including but not limited to conflicts within or between the RFP Documents and Proposal;
- .2** Design-Builder shall be deemed to have expressly warranted that the Contract Documents existing as of the end of the Scope Validation Period are sufficient to enable Design-Builder to complete the design and construction of the Project without any increase in the Contract Price or extension to the Contract Time(s); and
- .3** County expressly disclaims any responsibility for, and Design-Builder expressly waives its right to seek any increase in the Contract Price or extension to the Contract Time(s) for, any Scope Issue associated with any of the Contract Documents, including but not limited to the RFP Documents.

2.3 Design Professional Services

2.3.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering, surveying, and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. All design professional services shall be performed by professionals properly licensed in the State of Maryland.

2.3.2 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Notwithstanding the preceding sentence, if the Contract Documents establish a specific performance standard for any aspect of the Work, the design professional services shall be performed to achieve such standards.

2.3.3 No Design Consultant is intended to be, nor shall any Design Consultant be deemed to be, a third-party beneficiary of this Agreement. County is intended to be and shall be deemed a third-party beneficiary of all contracts between Design-Builder and any Design Consultant. In the event that this Agreement is terminated, Design-Builder shall, upon the written demand of County, assign such contracts to County, if the County so requests.

2.3.4 Design-Builder shall incorporate all obligations and understandings of the Contract Documents applicable to design services in its respective contracts with any Design Consultant, and require that such obligations be flowed down to lower-tiered Design Consultants, including the obligations relative to ownership of the Work Product set forth in Article 4 of the Agreement.

2.4 Design Development Services

2.4.1 Design-Builder shall, consistent with any applicable provision of the Contract Documents, provide County with ten (10) sets of the following interim design submissions, which submissions generally correspond to the County's concurrent engineering process, including but not limited to: (i) Preliminary Field Inspection ("PFI"); (ii) Field Inspection and Right-of-Way ("FI/RW"); and (iii) additional interim design submissions that County may require. On or about the time of the scheduled submissions, Design-Builder and County shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or, if applicable, previous design submissions. Minutes of the meetings will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, County shall review and provide comments on the interim design submissions (except that it will specifically approve or disapprove of the FI/RW submissions) within fourteen (14) days after receipt of the required submissions. Design-Builder shall promptly revise and modify all such submittals so as to fully reflect all comments and shall deliver to County revised submittals for review and comment (and approval as the case may be).

2.4.2 Design-Builder shall submit to County Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work, in full compliance with all Legal Requirements and Governmental Approvals. The Construction Documents shall be consistent with the latest set of interim design submissions; as such submissions may have been modified in a design review meeting, as agreed upon in writing, and shall be submitted after Design-Builder has obtained all requisite Governmental Approvals associated with the Work contained in such documents. The parties shall have a design review meeting to discuss, and County shall review and approve, the Construction Documents in accordance with the procedures set forth Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit ten (10) sets of approved Construction Documents to County prior to commencement of construction.

2.4.3 County's review, comment and/or approval of interim design submissions and the Construction Documents are for the purpose of establishing Design-Builder's compliance with the requirements of the Contract Documents and mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. County's review, comment and/or approval of any interim or final design submission (including but not limited to the Construction Documents) shall not be deemed to transfer any liability from Design-Builder to County.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may, with the prior agreement of County, prepare design submittals and Construction Documents for a portion of the Work to permit procurement and construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements

2.5.1 Design-Builder shall keep fully informed of and perform the Work in accordance with all Legal Requirements. Design-Builder shall provide all notices, and execute and file the documents, statements and/or affidavits applicable to the Work as required by the Legal Requirements. Design-Builder shall permit County's examination of any records made subject to such examination by any applicable Legal Requirements.

2.5.2 Design-Builder may request, by submission of a Change order request, that the Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the Agreement Date, affecting the performance of the Work. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements. Notwithstanding anything to the contrary, the relief afforded by this Section 2.5 shall not apply to changes in any tax laws, with Design-Builder bearing the risk of such changes.

2.6 Governmental Approvals

2.6.1 Where Government Approvals are necessary and not previously obtained by the County, Design-Builder shall obtain and pay for all necessary Governmental Approvals required for the prosecution of the Work by any Governmental Unit. If any such Governmental Approval is

required to be formally issued in the name of County, Design-Builder shall undertake all efforts to obtain such Governmental Approvals subject to County's reasonable cooperation with Design-Builder, including execution and delivery of appropriate applications and other documentation in forms approved by County. Design-Builder shall deliver to County, promptly after Design-Builder's receipt, a copy of each such Governmental Approval, with a listing of the status of all such Governmental Approvals included in the monthly reports required by Section 11.1 of the Agreement.

2.6.2 Where the County has agreed to assume responsibility for obtaining Government Approvals the Design-Builder shall provide reasonable assistance to County in obtaining those Governmental Approvals that are County's responsibility, and no construction activity will commence until: (i) all Governmental Approvals required for the relevant construction activity (including any activity that may disturb the Site) have been obtained; (ii) County has been notified that such Governmental Approvals have been obtained; and (iii) County has, after reviewing the validity and scope of the Governmental Approval, authorized Design-Builder to proceed.

2.6.3 Design-Builder shall ensure that the Work conforms to the requirements and stipulations of all Governmental Approvals. Any violations of or noncompliance with any Governmental Approval, including but not limited to suspensions caused by Design-Builder violating or not being in compliance with a Governmental Approval, shall be at the sole risk of Design-Builder, and shall not be a basis for adjusting the Contract Price and/or Contract Time(s).

2.7 Design-Builder's Construction Phase Services

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of County or a Separate Contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, QA/QC inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents, and shall maintain or cause to be maintained all licenses required of the Design-Builder or its employees in connection with the Work. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.7.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work lawfully in the State of Maryland and consistent with the Contract Documents.

Design-Builder shall not use any Subcontractor to whom County has a reasonable objection, and shall obtain County's written consent before making any substitutions or additions to Subcontractors previously identified to County as being members of Design-Builder's Project team, including those who may have been identified in the Proposal.

2.7.4 Design-Builder assumes responsibility to County for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in

the Contract Documents is intended or deemed to create any legal or contractual relationship between County and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors. If County performs other work on the Project or at the Site with Separate Contractors under County's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such Separate Contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit County to occupy the Project or a portion of the Project for its intended use.

2.7.7 Design-Builder shall be responsible for the security of the Site until Substantial Completion of the Work, or a portion of the Work.

2.8 Design-Builder's Responsibility for Project Safety

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to: (i) all individuals at the Site, whether working or visiting; (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site; and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable. Design-Builder shall provide minutes of each safety meeting to County within five (5) days of such meeting.

2.8.2 Design-Builder shall provide, for County's review, comment and acceptance, a Health, Safety and Welfare ("HS&W") plan on or before the earlier of fourteen (14) days of the Date of Notice to Proceed, or twenty-one (21) days before Design-Builder intends to commence any construction-related activities at the Site. Design-Builder shall not perform any construction-related activity (including any activity that disturbs the Site) until an acceptable HS&W plan is in place.

2.8.3 Design-Builder and Subcontractors shall comply with: (i) all Legal Requirements relating to safety; (ii) Design-Builder's HS&W plan; and (iii) any County-specific safety requirements

set forth in the Contract Documents, provided that such County-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to County's Representative and, to the extent mandated by Legal Requirements, to all Governmental Units having jurisdiction over safety-related matters involving the Project or the Work.

2.8.4 County shall have the right to immediately suspend any or all Work if Design-Builder fails to comply with its obligations hereunder.

2.8.5 Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for: (i) complying with all Legal Requirements, including those related to health and safety matters; and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.9 Design-Builder's Warranty

2.9.1 Design-Builder warrants to County that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, damage, alterations, or failure to maintain the Work by persons other than Design-Builder or anyone for whose acts Design-Builder may be liable. Nothing in this warranty is intended to limit any manufacturer's warranty which provides County with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide County with all manufacturers' warranties upon Substantial Completion.

2.10 Correction of Defective Work

2.10.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one (1) year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents or applicable Legal Requirements or Government Approvals.

2.10.2 Design-Builder shall, within seven (7) days of receipt of written notice from County or the QA Manager that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, County, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that County will commence correction of such nonconforming Work with its own forces. If County does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by County in performing such correction. If the nonconforming Work creates an emergency

requiring an immediate response, the seven (7) day periods identified herein shall be deemed inapplicable.

2.10.3 The one (1) year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies County may have regarding Design-Builder's other obligations under the Contract Documents.

2.11 County's Rights to Direct Design-Builder

2.11.1 When any act, omission, or other action of Design-Builder occurs that violates the requirements, conditions, or terms of the Contract Documents; or affects the health, safety, or welfare of the public or natural resources, County will have the right, but not the obligation, to direct Design-Builder to take prompt action to repair, replace, or restore the damage or injury within a time frame established by County. If Design-Builder fails to make such repair, replacement, or restoration within the established time frame, County will have the damage or injury repaired, replaced, or restored and will deduct the cost of such repair, replacement, or restoration from monies due Design-Builder.

Article 3 - County's Services and Responsibilities

3.1 Duty to Cooperate

3.1.1 County shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 County shall provide timely reviews and (where required) approvals of submittals, interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule, provided, however that, unless stated otherwise in the Contract Documents, County shall have fourteen (14) days after receipt of such submissions to act upon such submissions.

3.1.3 County Project Manager shall be responsible for coordinating and participating in a monthly progress meeting day for the duration of the Project. Meetings will occur monthly beginning the month after the issuance of the Notice to Proceed.

3.2 Furnishing of Services and Information

3.2.1 Any documents provided by the County as part of or attached to the RFP Document(s) are for Design-Builder to consider in developing the Proposal and for executing the Work. Design-Builder shall thoroughly review and compare all such documents during the Scope Validation Period and, to the extent that any Scope Issues arise, County shall consider such issues in accordance with Section 2.2 above.

3.3 Financial Information

3.3.1 The County is committed to fulfill all of the County's contractual obligations under the Contract Documents.

3.4 County's Representative

3.4.1 County's Representative shall be responsible for providing County-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. County's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work.

3.5 Governmental Approvals

3.5.1 County shall obtain and pay for all necessary County Approvals set forth in the County's regulations.

3.5.2 County shall provide reasonable assistance to Design-Builder in obtaining other Governmental Approvals that are Design-Builder's responsibility.

3.6 County's Separate Contractors

3.6.1 The County may at any time contract or approve concurrent contracts for performance of other work on, near, or within the same geographical area of the work specified in an existing contract. Design-Builder shall not impede or limit access to such work by others.

3.6.2 When separate contracts are awarded within the limits of one project, contractors shall not hinder the work being performed by other contractors. Design-Builder(s) and/or Separate Contractor(s) working on the same project shall cooperate with each other. In case of dispute, the County's Director of **Engineering** will be the referee, and his decision will be binding on all parties.

3.6.3 When contracts are awarded to Design-Builder(s) and/or Separate Contractor(s) for known concurrent construction in a common area, the Design-Builder(s) and/or Separate Contractor(s), in conference with the County's Director of **Engineering**, shall establish a written joint schedule of operations. The schedule shall be based on the limitations of the individual contracts and the joining of the work of one contract with the others. The schedule shall set forth the approximate dates and sequences for the several items of work to be performed and shall ensure completion within the contract time limit. The schedule shall be submitted to the County's Director of Public Works for review and approval no later than fourteen (14) days after the award date of the later contract and prior to the first monthly progress meeting. The schedule shall be agreeable to, signed by, and binding on each Design-Builder(s) and/or Separate Contractor(s). The County's

Director of Public Works may allow modifications of the schedule when benefit to the Design-Builder(s) and/or Separate Contractor(s) and the County will result.

3.6.4 Any modification of the schedule shall be in writing, mutually agreed to and signed by the Design-Builder(s) and/or Separate Contractor(s), and shall be binding on the Design-Builder(s) and/or Separate Contractor(s) in the same manner as the original agreement.

3.6.5 If the Design-Builder(s) and/or Separate Contractor(s) fail to agree on a joint schedule of operations, they shall submit their individual schedules to the County's Director of Engineering, who will prepare a schedule that will be binding on each Design-Builder and/or Separate Contractor.

3.6.6 The joint schedule and any modification thereof shall become a part of each contract involved. The failure of any Design-Builder and/or Separate Contractor to abide by the terms of the joint schedule will be justification for declaring the Design-Builder and/or Separate Contractor in default of his contract.

3.6.7 Each Design-Builder and/or Separate Contractor shall assume all liability, financial or otherwise, in connection with his contract and shall protect and save harmless the County from any and all damages and claims that may arise because of any inconvenience, delay, or loss he experiences as a result of the presence and operations of other Design-Builder(s) and/or Separate Contractor(s) working in or near the work covered by his contract. He shall also assume all responsibility for any of his work not completed because of the presence or operation of other Design-Builder(s) and/or Separate Contractor(s).

3.6.8 Except for an extension of the contract time limit, the County will not be responsible for any inconvenience, delay, or loss experienced by the Design-Builder and/or Separate Contractor as a result of his failure to gain access to the work at the time contemplated. When the failure to gain access is not due to any fault or negligence of the Design-Builder and/or Separate Contractor, an extension of the contract time limit will be allowed on the basis of the amount of time delayed.

3.6.9 The County will not assume any responsibility for acts, failures, or omissions of one Design-Builder and/or Separate Contractor that delay the work of another except as provided herein.

Article 4 - Hazardous Environmental Conditions and Differing Site Conditions

4.1 Hazardous Environmental Conditions

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Environmental Conditions encountered at the Site. Upon encountering any Hazardous Environmental Conditions, Design-Builder will stop Work immediately in the affected area and duly notify County and, if required by Legal Requirements, all Governmental Units with jurisdiction over the Project or Site.

4.1.2 Upon receiving notice of the presence of suspected Hazardous Environmental Conditions, County shall take the necessary measures required to ensure that the Hazardous Environmental Conditions are remediated or rendered harmless. Such necessary measures shall include County retaining qualified independent experts to: (i) ascertain whether Hazardous Environmental Conditions have actually been encountered; and, if they have been encountered, (ii) prescribe the remedial measures that County must take either to remove the Hazardous Environmental Conditions or render the Hazardous Environmental Conditions harmless.

4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after County's expert provides it with written certification that: (i) the Hazardous Environmental Conditions have been removed or rendered harmless; and (ii) all necessary Governmental Approvals have been obtained.

4.1.4 Design-Builder will be entitled to submit a request for a change order in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence, removal or remediation of Hazardous Environmental Conditions at the Site.

4.1.5 Notwithstanding the preceding provisions of this Section 4.1, County is not responsible for Hazardous Materials introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.1.6 Design-Builder shall indemnify, defend and hold harmless each Indemnitee from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from:

- .1 those Hazardous Materials introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable;
- .2 the spreading, migration, release, remediation, storing, transportation or disposal by Design-Builder, Subcontractors or anyone for whose acts they may be liable, of pre-existing Hazardous Materials not discovered during the Scope Validation Period or thereafter; and
- .3 exacerbation, due to negligence, recklessness or willful misconduct of Design-Builder, Subcontractors, or anyone for whose acts they may be liable of the release, spreading, migration or toxicity of Hazardous Materials at the Site which are known by Design-Builder to exist.

4.2 Inspection of Site Conditions

4.2.1 Design-Builder represents and warrants that it has, as of the Agreement Date, ascertained the nature and location of the Work, the character and accessibility of the Site, the existence of obstacles to construction, the availability of facilities and utilities, the location and character of existing or adjacent work or structures, the surface and subsurface conditions, and other general

and local conditions (including labor) which might affect its performance of the Work or the cost thereof.

4.2.2 Design-Builder will, after the Date of Notice to Proceed, undertake such testing, inspections and investigations as may be necessary to perform its obligations under the Contract Documents, including but not limited to additional geotechnical evaluations or Hazardous Materials studies. If Design-Builder intends to conduct additional geotechnical evaluations to supplement or corroborate the information contained in the RFP Documents, it shall do so during the Scope Validation Period. Any Scope Issues that arise from such evaluations shall be treated in the manner set forth in Section 2.2.3 above. All reports or analyses generated by Design-Builder's testing, inspections and investigations, including but not limited to additional geotechnical testing, shall be furnished to County promptly after such reports or analyses are generated.

4.3 Differing Site Conditions

4.3.1 Concealed or latent physical conditions or subsurface conditions at the Site that: (i) materially differ from the conditions indicated in the RFP Documents (as such conditions may be further described through reports or analyses undertaken during the Scope Validation Period); or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to submit a request for a Change order for an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition as allowed for herein.

4.3.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to County of such condition, which notice shall not be later than seven (7) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

4.3.3 Design-Builder shall not be entitled to any adjustment in the Contract Price and/or Contract Time(s) due to impacts of Differing Site Conditions not identified during the Scope Validation Period.

Article 5 - Insurance and Bonds

5.1 Design-Builder's Insurance Requirements

5.1.1 Design-Builder is responsible for procuring and maintaining from insurance companies authorized to do business in the State of Maryland the insurance required by Maryland law or County policy.

5.1.2 Design-Builder's liability insurance required by Section 5.1.1 above shall be written for the coverage amounts set forth in the Contract Documents and shall include completed operations insurance for the period of time set forth in such amendments.

5.1.3 Design-Builder's liability insurance set forth in Section 5.1.1 above shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.4 Prior to the Date of Notice to Proceed, Design-Builder shall provide County with certificates evidencing that: (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents; and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to County.

5.2 Bonds and Other Performance Security

5.2.1 Design-Builder shall procure performance and payment bonds executed by a surety acceptable to County, each in the amount of one hundred percent (100%) of the Contract Price, and in accordance with all other requirements of the Contract Documents, including the Division I Amendments.

Article 6 - Payment

6.1 Schedule of Payments

6.1.1 Within thirty (30) days of the Date of Notice to Proceed, Design-Builder shall submit to County, for its review and approval, and as part of its submission of the Baseline Schedule, pricing for the value of each work package, consistent with the Work Breakdown Structure submitted in Design-Builder's Proposal ("Earned Value Schedule"). The approved Earned Value Schedule will: (i) include values for all items comprising the Work; and (ii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

6.1.2 The parties agree that progress payments for Work performed prior to County's approval of the Earned Value Schedule shall be based on the schedule of values provided in the Proposal.

6.1.3 Neither the Earned Value Schedule nor payments made under Section 6.1.2 above shall exceed the monthly payment schedule submitted with the Proposal, unless County specifically approves this in writing.

6.2 Monthly Progress Payments

6.2.1 On the first (1st) day of each month, Design-Builder shall submit for County's review and approval its Application for Payment requesting payment for all Work performed as of the last day of the previous month and coinciding with the progress reflected in the monthly Baseline Schedule update. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.2 hereof. Payment shall be made in accordance with the following earned value calculation:

- .1 Design-Builder shall identify each work package, and the value in dollars of such work package, in accordance with Section 6.1.1 above. Applications for Payment shall be made based on the following earned values.
 - .1 Design-Builder shall earn twenty percent (20%) of the value of a work package upon initiation of the respective work package.
 - .2 Design-Builder shall earn eighty percent (80%) of the value of a work package upon completion of the respective work package.
- .2 QA/QC shall be an integral part of each work package. As part of each Application for Payment that includes completed work packages, Design-Builder's designated quality assurance manager shall certify that each work package has been completed in accordance with the Contract Documents, and that all required QA/QC tests, measurements, permits or other requirements have been completed and all non-conformance reports relative to the respective work package have been resolved.

6.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that: (i) County, in its sole discretion, agrees that it is willing to allow payment for such equipment and materials; (ii) County is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location; (iii) the equipment and materials are protected by suitable insurance; and (iv) upon payment, County will receive the equipment and materials free and clear of all liens and encumbrances.

6.2.3 The Application for Payment shall constitute Design-Builder's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to County free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.2.4 The County will withhold ten (10%) percent retainage of the amount due to the Contractor until the Project is complete and accepted. Upon completion of fifty percent (50%) of the Contract Value, the Design-Builder may request reduction in the monthly retainage to no less than five percent (5%) if work completed to date is satisfactory and acceptable to the County, and there are no outstanding claims against the County precipitated by the Design-Builder's work or that of his subcontractors and suppliers.

6.3 Withholding of Payments

6.3.1 On or before the date established in the Agreement, County shall pay Design-Builder all amounts properly due. If County determines that Design-Builder is not entitled to all or part of an Application for Payment, it will notify Design-Builder in writing at least seven (7) days prior to the date payment is due. The notice shall indicate the specific amounts County intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify County's concerns. Design-Builder and County will attempt to resolve County's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, County shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

6.4 Right to Stop Work and Interest

6.4.1 If County wrongfully fails to pay Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

6.5 Design-Builder's Payment Obligations

6.5.1 Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from County on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend County against any claims for payment and mechanic's liens as set forth in Section 7.2.1 hereof.

6.6 Substantial Completion

6.6.1 Design-Builder shall notify County when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete. Within seven (7) days of County's receipt of Design-Builder's notice, County and Design-Builder will jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents. If such Work is substantially complete, County shall prepare and issue a Certificate of Substantial Completion that will set forth: (i) the date of Substantial Completion of the Work or portion thereof; (ii) the remaining items of Work that have to be completed before final payment; (iii) provisions (to the extent not already provided in the Contract Documents) establishing County's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment; and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, County shall pay to Design-Builder all amounts properly due, as applicable, to the entire Work or completed portion of the Work, less an amount equal to two hundred percent (200%) of County's determination of the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion and the retainage amount identified in 6.2.4.

6.6.3 County, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that: (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above; and (ii) Design-Builder and County have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate Governmental Units having jurisdiction over the Project.

6.7 Final Acceptance and Final Payment

6.7.1 Design-Builder shall notify County when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is finally complete. Within seven (7) days of County's receipt of Design-Builder's notice, County and Design-Builder will jointly inspect such Work to verify that it is complete in accordance with the requirements of the Contract Documents. The County will make the Final Acceptance of the Work, whereupon Design-Builder will provide County with a Final Application for Payment. County shall make final payment by the time required in the Agreement, provided that Design-Builder has completed all of the Work in conformance with the Contract Documents. The retainage will be released with the final payment.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

- .1** an affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect County's interests;
- .2** a general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to County and remaining unsettled at the time of final payment, which claims shall be specifically listed in an attachment to the general release;
- .3** consent of Design-Builder's surety to final payment;
- .4** all operating manuals, warranties and other deliverables required by the Contract Documents, including the correspondence files required by Section 11.1.9 of the Agreement; and
- .5** certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.3 Upon making final payment, County waives all claims against Design-Builder except claims relating to: (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects County's interests; (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Final Acceptance; and (iii) the terms of any special warranties and indemnifications required by the Contract Documents.

Article 7 - Indemnification

7.1 Patent and Copyright Infringement

7.1.1 Design-Builder shall defend any action or proceeding brought against any Indemnitee based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. The State Indemnitee shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Indemnitees from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against State Indemnitees or Design-Builder in any such action or proceeding. Design-Builder agrees to keep the Indemnitees informed of all developments in the defense of such actions.

7.1.2 If a Indemnitee is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense: (i) modify the Work so as to avoid infringement of any such patent or copyright; or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright: (i) relating solely to a particular process or product of a particular manufacturer specified by County and not offered or recommended by Design-Builder to County; or (ii) arising from modifications to the Work by County after acceptance of the Work.

7.2 Payment Claim Indemnification

7.2.1 Providing that County is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Indemnitees from any claims or mechanic's liens brought against any Indemnitee or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from a Indemnitee that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, The Indemnitee will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.3 Design-Builder's General Indemnification

7.3.1 Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Indemnitees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for: (i) bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable; and (ii) any violation of

Sections 2.5, 2.6, or 2.8 hereof by Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

7.3.2 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable, has a claim against a Indemnitee, Design-Builder's indemnity obligation set forth in Section 7.3.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

7.4 Defense and Indemnification Procedures

7.4.1 If County receives notice of or otherwise has actual knowledge of a claim which it believes is within the scope of Design-Builder's indemnification under the Contract Documents, it shall by writing as soon as practicable: (i) inform Design-Builder of such claim; (ii) send to Design-Builder a copy of all written materials County has received asserting such claim and (iii) notify Design-Builder that either: (i) the defense of such claim is being tendered to Design-Builder; or (ii) County has elected to conduct its own defense for a reason set forth below.

7.4.2 If the insurer under any applicable insurance policy accepts tender of defense, Design-Builder and County shall cooperate in the defense as required by the insurance policy. If no defense is provided by insurers under potentially applicable insurance policies, then the following provisions shall apply.

7.4.3 If the defense is tendered to Design-Builder, it shall within forty-five (45) days of said tender deliver to County a written notice stating that Design-Builder: (i) accepts the tender of defense and confirms that the claim is subject to full indemnification hereunder without any "reservation of rights" to deny or disclaim full indemnification thereafter; (ii) accepts the tender of defense but with a "reservation of rights" in whole or in part; or (iii) rejects the tender of defense if it reasonably determines it is not required to indemnify against the claim under the Contract Documents. If such notice is not delivered within such forty-five (45) days, the tender of defense shall be deemed rejected.

7.4.4 If Design-Builder accepts the tender of defense, Design-Builder shall have the right to select legal counsel for the Indemnitees, subject to reasonable approval of the State Attorney General, and Design-Builder shall otherwise control the defense of such claim, including settlement, and bear the fees and costs of defending and settling such claim. During such defense: (i) Design-Builder shall at Design-Builder's expense, fully and regularly inform County of the progress of the defense and of any settlement discussions; and (ii) County shall, at Design-Builder's expense for all of County's reasonable out-of-pocket third party expenses, fully cooperate in said defense, provide to Design-Builder all materials and access to personnel it requests as necessary for defense, preparation and trial and which or who are under the control of or reasonably available to County and maintain the confidentiality of all communications between it and Design-Builder concerning such defense to the extent allowed by law.

7.4.5 County shall be entitled to select its own legal counsel and otherwise control the defense of such claim if: (i) the defense is tendered to Design-Builder and it refuses the tender of defense, or fails to accept such tender within forty-five (45) days, or reserves any right to deny or disclaim such full indemnification thereafter; or (ii) County, at the time it gives notice of the claim or at any time thereafter, reasonably determines that: (i) a conflict exists between it and the Design-Builder which prevents or potentially prevents Design-Builder from presenting a full and effective defense; or (ii) Design-Builder is otherwise not providing an effective defense in connection with the claim and Design-Builder lacks the financial capability to satisfy potential liability or to provide an effective defense. County may assume its own defense pursuant to the above by delivering to Design-Builder written notice of such election and the reasons therefore.

7.4.6 If County is entitled and elects to conduct its own defense pursuant hereto, all reasonable costs and expenses it incurs in investigating and defending and claim for which it is entitled to indemnification hereunder (and any settlements or judgments resulting there from) shall be reimbursed by Design-Builder after completion of the proceeding.

7.4.7 If County is entitled to and elects to conduct its own defense, then it shall have the right to settle or compromise the claim with the Design-Builder's prior written consent, which shall not be unreasonably withheld or delayed, or with approval of the court, and with the full benefit of the Design-Builder's indemnity. Notwithstanding the foregoing, if the County elects to conduct its own defense and it is later determined that no indemnification obligation existed as to the particular claim, the County shall pay its own costs and expenses relating thereto. In addition, if the County elects to conduct its own defense because it perceives a conflict of interest, the County shall pay its own costs and expenses relating thereto.

Article 8 - Time

8.1 Obligation to Achieve the Contract Times

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with the Agreement.

8.2 Delays to the Work

8.2.1 If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own, Subcontractors, Design Consultants, or those for whom Design-Builder, Subcontractors, or Design Consultants are responsible, Design-Builder may submit a request for a Change order that the Contract Time(s) for performance be reasonably extended by Change order. By way of example, events that County may consider for an extension of the Contract Time(s) include acts or omissions of County or anyone under County's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Materials, wars, floods in excess of the base flood (as defined in the Division 1 Amendment), hurricane force winds, tornados, labor disputes, and earthquakes that cause ground accelerations in excess of AASHTO bridge design standards for the Site. It is specifically understood that other than floods in excess of the base flood, hurricane force winds and tornados, Design-Builder assumes the risk, and will not be

entitled a time extension for any delays caused by weather or conditions resulting from weather. Any extension authorized by the County under this section shall be noncompensatory.

8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to submit a request of a Change order for an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in Section 8.2.1 above that are beyond the control of both Design-Builder and County, including the events of wars, floods in excess of the base flood (as defined in the Division 1 Amendment), hurricane force wind, tornados, labor disputes, and earthquakes that cause ground accelerations in excess of AASHTO bridge design standards for the Site.

8.2.3 As a condition precedent to Design-Builder receiving an extension of the Contract Time(s), Design-Builder shall demonstrate that: (i) notice has been given by Design-Builder as provided in these General Conditions; (ii) the delay impacts the critical path (as reflected on the most recent monthly Baseline Schedule update) and is outside the reasonable control of Design-Builder; (iii) Design-Builder's performance would not have been concurrently delayed or interrupted by any event other than those identified in Section 8.2.1 above; (iv) Design-Builder, in view of all the circumstances, has exercised reasonable efforts to avoid the delay and did not cause the delay; and (v) Design-Builder has complied with the requirements of Section 8.3 below. Delays of Subcontractors shall be deemed to be within the reasonable control of Design-Builder, unless such delays are themselves excusable in accordance with the provisions of Section 8.2.1.

8.2.4 Should County have a reasonable belief that the Contract Time(s) will not be met for causes that do not constitute an excusable delay under Section 8.2.1 above, County has the right, but not the obligation, to so notify Design-Builder, and Design-Builder shall then work additional overtime, engage additional personnel and take such other measures as necessary to complete the Work within the Contract Time(s). Design-Builder shall bear all costs related to such overtime, additional personnel and other measures.

8.2.5 Notwithstanding the right of Design-Builder to receive a time extension pursuant to Section 8.2.1, Design-Builder agrees that if it encounters an excusable delay, it will, if directed by County, develop and implement a recovery schedule and plan to improve progress and take such measures to overcome such delay.

8.3 Time Impact Analysis for Proposed Time Extensions

8.3.1 If Design-Builder claims that any event, including but not limited to a change in the Work, justifies an extension to the Contract Time(s), Design-Builder shall submit to County a written Time Impact Analysis ("TIA") establishing the influence of the event on the latest approved Baseline Schedule update. Each TIA shall include a Fragmentary Network, and for events that have yet to occur (such as proposed change orders), the Fragmentary Network shall demonstrate how Design-Builder proposes to incorporate such event into the Baseline Schedule. The TIA shall demonstrate: (i) the time impact based on the date the event occurred, or, in the instance of proposed change orders, the date such change order was given to Design-Builder; (ii) the status

of the Work at such point in time; and (iii) the time computation of all affected activities. Upon approval by County, the event shall be included in the next Baseline Schedule update.

8.3.2 Activity delays shall not automatically mean that an extension of the Contract Time(s) is warranted or due Design-Builder. Design-Builder recognizes that certain events will not affect existing critical activities or cause non-critical activities to become critical, and that such events may result in only absorbing a part of the available total float that may exist within an activity chain of the network, thereby not causing any effect on the Contract Time.

8.3.3 Float is not for the exclusive use or benefit of either County or Design-Builder, but rather shall be used for the benefit of the overall Project. Activity splitting or float suppression techniques will not be permitted. Extension of the Contract Time(s) will be granted only to the extent the equitable time adjustments to the activity or activities affected by the event exceeds the total float of a critical activity or path and extends the Contract Time(s).

8.3.4 Two (2) copies of each TIA shall be submitted in accordance with the following along with a written proposal for any requested time extension:

- .1 Within seven (7) days after receipt of a written change order.
- .2 Within ten (10) days from the beginning of any other event claimed to give rise to a delay.
- .3 Within the time period required under the applicable laws of the State or County for the filing of a written notice of claim, contract adjustments and/or disputes.

8.3.5 In cases where Design-Builder does not submit a TIA within the time requirements stated above, it shall be considered a waiver of any request for an extension of the Contract Time(s).

8.3.6 Approval or rejection of each TIA by County shall be made within ten (10) days after receipt of each TIA, unless subsequent meetings and negotiations are necessary. Upon approval, a copy of the TIA signed by County shall be returned to Design-Builder, and incorporated into the next Baseline Schedule update. If the County requires more than ten days, the County must notify the Contractor of such delay and stipulate when a reply will be provided.

8.3.7 The TIA related to a change order shall be incorporated into and attached to the applicable change order.

Article 9 - Changes to the Contract Price and Time

9.1 Change orders

9.1.1 A Change order, is a written instrument on a form provided by the County, issued after the Agreement Date signed by County and Design-Builder, stating their agreement upon all of the following:

- .1 The scope of the change in the Work;
- .2 The amount of the adjustment to the Contract Price;
- .3 The extent of the adjustment to the Contract Time(s); and
- .4 Any changes in the terms and conditions of the Contract.

9.1.2 All changes in the Work authorized by applicable Change order shall be performed under the applicable conditions of the Contract Documents. County and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

9.1.3 If County requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

9.2 Contract Change Directive

9.2.1 A Contract Change Directive (“CCD”) is a written order prepared and signed by County, directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 County and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Contract Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change order reflecting the terms of the agreement.

9.2.3 The County may issue a CCD by unilateral Change order using VDOT Form C-10, subject further to the terms of Section 9.4.3.

9.3 Minor Changes in the Work

9.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however that Design-Builder shall promptly inform County and the QAM, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 Contract Price Adjustments

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

- .1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;
- .2 A mutually accepted, lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by County;
- .3 Costs, fees and any other markups set forth in the Contract; and
- .4 If an increase or decrease cannot be agreed to as set forth in items .1 through .3 above and County issues a Contract Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement. If the net result of both additions and deletions to the Work is an increase in the Contract Price, overhead and profit shall be calculated on the basis of the net increase to the Contract Price. If the net result of both additions and deletions to the Work is a decrease in the Contract Price, there shall be no overhead or profit adjustment to the Contract Price. Design-Builder shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes.

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to County or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted. Design-Builder shall bear the burden of proving that there is a substantial inequity in the unit rates.

9.4.3 If County and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by County, or if there are any other disagreements over the scope of Work or proposed changes to the Work, County and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish County with a good faith estimate of the costs to perform the disputed services in accordance with County's interpretations. If the parties are unable to agree and County expects Design-Builder to perform the services in accordance with County's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon County issuing a written order to Design-Builder: (i) directing Design-Builder to proceed; and (ii) specifying County's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable direct costs incurred to perform the services, and County agrees to pay such amounts, with the express understanding that: (i) such payment by County does not prejudice County's right to argue that it has no responsibility to pay for such services; and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if County's order is deemed to be a change to the Work.

9.5 Emergencies

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

Article 10 - Contract Adjustments and Disputes

10.1 Requests for Contract Adjustments and Relief

10.1.1 If Design-Builder believes that it is entitled to an adjustment to the Contract Price or Contract Times or other relief for any event arising out of or related to the Work or Project, including the acts or omissions of County, it shall provide written notice to County of the basis for such Contract Price or Contract Time adjustment or relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice of Design-Builder's intention to seek a Contract Price or Contract Time adjustment or relief shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the request for Contract Price or Contract Time adjustment or relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request for Contract Price or Contract Time adjustment or relief, whichever is later. Such notice shall include sufficient information to advise County of the circumstances giving rise to the request for Contract Price or Contract Time adjustment or relief, the specific contractual adjustment or relief requested and the basis of such request.

10.2 Dispute Avoidance and Resolution

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes and disagreements. If disputes or disagreements do arise, Design-Builder and County each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

10.2.2 Design-Builder and County will first attempt to resolve all disputes or disagreements at the field level through best efforts and good faith negotiations between Design-Builder's Representative and County's Representative. If the dispute or disagreement cannot be resolved through Design-Builder's Representative and County's Representative, Design-Builder's Senior Representative and County's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than forty-five (45) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving the dispute or disagreement. If the Senior Representatives determine that the dispute or disagreement cannot be resolved to the mutual satisfaction of both parties, despite their best efforts, then such dispute or disagreement shall be submitted administratively as set forth in Sections 10.2.3 and 10.2.4 below.

10.2.3 If the process established in Section 10.2.2 above does not result in the resolution of a dispute or disagreement, Design-Builder shall submit to County a written claim which shall set forth the facts upon which the claim is based. Design-Builder shall include all pertinent data and correspondence that may substantiate the claim. Within ninety (90) days from the receipt of such claim, County shall make an investigation and notify Design-Builder in writing by registered mail of its decision. Design-Builder and County may, however, mutually extend such ninety-day period for another thirty (30) days. If dissatisfied with the decision, Design-Builder shall, within thirty (30) days from receipt of such decision, notify the County, in writing, that Design-Builder desires to arbitrate the claim, either in person or through counsel, and present any additional facts and arguments in support of its claim as previously filed.

10.2.4 The mutually agreed Arbitrator or his designee will schedule and meet Design-Builder and the County representative within thirty (30) days of receiving the Design-Builder's written request. Design-Builder and Arbitrator may, however, mutually agree to schedule such appearance to be held after thirty (30) days but before sixty (60) days from the receipt of such written request. Within forty-five (45) days from the date of the appearance before him, the Arbitrator shall make an investigation of the claim and notify Design-Builder in writing of his decision. Design-Builder, the County Representative and the Arbitrator may, however, mutually agree to extend such forty-five day period for another thirty (30) days. If the Arbitrator deems that all or any portion of a claim is valid, he shall have the authority to negotiate a settlement with Design-Builder, but any such settlement shall be subject to the provisions of the State of Maryland laws and regulations.

10.2.5 Failure of County or the Arbitrator to render a decision within the time period specified in Section 10.2.4 above, or within such other period as has been mutually agreed upon, shall be deemed a denial of the claim. Any mutual agreements for time extension permitted herein shall in no way extend the limitations set out in Maryland law, if any. If the Arbitrator determines that a claim has been denied as the result of an administrative oversight, then the County reserves the right to reconsider the claim.

10.2.6 As to such portion of the claim as is denied by the Arbitrator, Design-Builder may institute a civil action for such sum as it claims to be entitled to under the Agreement for itself, and for anyone claiming by or through Design-Builder, by the filing of a petition in the Circuit Court of the State of Maryland, which shall be the exclusive jurisdiction for any civil actions brought by Design-Builder against County. Any civil action brought by Design-Builder on behalf of a Subcontractor or Design Consultant shall only be brought for costs and expenses caused by the acts or omissions of County and shall not be brought for costs and expenses caused by Design-Builder. Trial shall be by the court without a jury. The submission of the claim to the County Attorney's Office of Washington County, Maryland within the times and as set out in Maryland law shall be a condition precedent to bringing a civil action. County shall be allowed to assert any and all defenses in a case brought by Design-Builder on behalf of a Subcontractor or Design Consultant which are available to Design-Builder.

10.2.7 No civil action shall be brought against County by Design-Builder (on behalf of itself or anyone claiming by or through Design-Builder) arising out of or related to this Agreement unless: (i) Design-Builder shall have exhausted the processes set forth in Sections 10.2.1 through

10.2.5 above; and (ii) such suit or action is initiated within twelve (12) months from Design-Builder's receipt of the decision of the Commissioner. The parties agree that the above-referenced conditions are conditions precedent to the initiation of a civil action, and that failure of Design-Builder to meet such conditions will be grounds for the civil action being dismissed.

10.2.8 Any moneys that become payable as the result of a settlement after Final Payment will not be subject to payment of interest unless such payment is specified as a condition of the settlement.

10.3 Duty to Continue Performance

10.3.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and County shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and County.

10.4 CONSEQUENTIAL DAMAGES

10.4.1 Notwithstanding anything herein to the contrary (except as set forth in Section 10.4.2 below), neither Design-Builder nor County shall be liable to the other for any consequential losses or damages, whether arising in Contract, warranty tort (including negligence), strict liability or otherwise, including but not limited to losses of use, profits, business, reputation or financing.

10.4.2 The consequential damages limitation set forth in Section 10.4.1 above will not affect the payment of liquidated damages set forth in the Agreement, which both parties recognize has been established, in part, to reimburse County for some damages that might otherwise be deemed to be consequential.

Article 11 - Stop Work and Termination for Cause

11.1 County's Right to Stop Work

11.1.1 County may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of work by County, by requesting a Change order.

11.2 County's Right to Perform and Terminate for Cause

11.2.1 If Design-Builder persistently fails to do any of the following, then Design-Builder may be declared in default and County, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Section 11.2.2 below:

- .1 begin the Work on the Date of Notice to Proceed;
- .2 provide a sufficient number of skilled workers, equipment, or supply the materials required by the Contract Documents;
- .3 comply with applicable Legal Requirements;
- .4 timely pay, without cause, Design Consultants or Subcontractors;
- .5 prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted; or
- .6 perform material obligations under the Contract Documents;

11.2.2 If any of the conditions set forth in Section 11.2.1 above exists, County will give written notice to Design-Builder and its surety of the condition. If, within ten (10) days after such notice, Design-Builder or its surety fails to cure, or reasonably commence to cure, such condition to the satisfaction of County, then County may then, or at any time thereafter, send a second written notice to Design-Builder declaring Design-Builder in default. Upon declaring Design-Builder in default, County shall have the right, among other things, to terminate this Agreement for default.

11.2.3 Upon terminating this Agreement for default, County will have the right to, in addition to any other right available at law, take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to County for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. Design-Builder specifically agrees that it will assign all Subcontractors and Design Consultants to County, upon County's written demand that it do so. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by County in completing the Work, such excess shall be paid by County to Design-Builder. If County's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to County. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by County in connection with the procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.4 hereof.

11.2.4 If County improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

11.2.5 County shall have the right, upon the occurrence of any of the conditions set forth in Section 11.2.1 above, and regardless of whether or not Design-Builder is declared in default and/or terminated, to communicate with Design-Builder's surety and compel such surety to cure such conditions.

11.3 Design-Builder's Right to Stop Work

11.3.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop work for the following reason:

- .1** County's failure to pay amounts properly due under Design-Builder's Application for Payment.

11.3.2 Should any of the events set forth in Section 11.3.1 above occur, before exercising its rights under this section, Design-Builder shall provide County with written notice that Design-Builder will stop work unless said event is cured within ten (10) days from County's receipt of Design-Builder's notice. If County does not cure the problem within such ten (10) day period, Design-Builder may stop work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

11.4 Design-Builder's Right to Terminate for Cause

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

- .1** The Work has been stopped for one hundred twenty (120) consecutive days, or more than one hundred eighty (180) days during the duration of the Project, because of court order, any Governmental Unit having jurisdiction over the Work, or orders by County under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.
- .2** County's failure to provide Design-Builder with any information, permits or approvals that are County's responsibility under the Contract Documents which result in the Work being stopped for one hundred twenty (120) consecutive days, or more than one hundred eighty (180) days during the duration of the Project, even though County has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.
- .3** County's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to County that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within ten (10) days of County's receipt of such notice. If County fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to County of its intent to terminate within an additional ten (10) day period. If County, within such second ten (10) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to County of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if County had terminated the Agreement for its convenience under Article 8 of the Agreement.

11.5 Bankruptcy of Design-Builder

11.5.1 If Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code, such event may impair or frustrate County's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

- .1 Design-Builder, its trustee or other successor, shall furnish, upon request of County, adequate assurance of the ability of Design-Builder to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and
- .2 Design-Builder shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If Design-Builder fails to comply with its foregoing obligations, County shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to County under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of County to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code. It shall also not limit the ability of County to seek recourse against Design-Builder's surety, who shall be obligated to perform notwithstanding the bankruptcy proceedings against Design-Builder.

Article 12 - Miscellaneous

12.1 Assignment

12.1.1 Design-Builder shall not, without the prior written consent of County (which consent may be withheld or denied for any reason), assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

12.2 Successorship

12.2.1 Design-Builder and County intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

12.3 Governing Law

12.3.1 The Agreement and all Contract Documents shall be governed by the laws of the State of Maryland, without giving effect to its conflict of law principles.

12.4 Severability

12.4.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

12.5 No Waiver

12.5.1 The failure of either Design-Builder or County to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

12.6 No Third-Party Beneficiary Status

12.6.1 Nothing under the Contract Documents shall afford any third party to this Agreement, including members of the public, third-party beneficiary status hereunder.

12.7 Headings

12.7.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

12.8 Notice

12.8.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given: (i) if delivered in person to the individual intended to receive such notice; (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement; or (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient, provided, however, that the intended recipient is present to receive the facsimile and the transmittal is immediately followed by a hard copy delivered in accordance with (i) or (ii) above.

12.9 Amendments

12.9.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

Special Provisions

THIS PROJECT IS A DESIGN/BUILD PROJECT. THE RESPONSIBILITIES OF THE DESIGN/BUILD CONTRACTOR

INCLUDE, BUT MAY NOT BE LIMITED TO: The Design Build Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and any other non-construction services furnished by the Design/Build Contractor under this contract. The Design/Build Contractor shall without additional compensation correct or revise any errors or deficiency in its designs, drawings, specifications, and other non-construction activities.

Neither the County's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Design/Build Contractor shall be and remain liable to the County in accordance with applicable law for all damages to the County caused by the Contractor's/Vendor's negligent performance of any of the services described in this RFP.

The rights and remedies of the County provided in this RFP are in addition to those provided by law.

The Designer-of-Record is the single point of responsibility for all design decisions and design products for the Design/Build Contractor and shall supply the required professional liability insurance. The Designer-of-Record must be a professional engineer registered in the State of Maryland. The Designer-of-Record shall review, coordinate, de-conflict and approve for construction all design and extensions of design produced by all members of the design-build team regardless of who produces it and/or internal contractual arrangements between members of the team including design sub-consultants, construction sub-contractors, material suppliers and other entities as required. The Designer-of-Record shall indicate review and approval on all final construction drawings, specifications, and other appropriate design documents by fixing a stamp indicating approved for construction or the Designer-of-Record's seal as appropriate. The Designer-of-Record shall ensure that all design product(s) have been priced and found to conform to the requirements of the construction schedule and the Design/Build Design Build Contractor's budget prior to submitting them to the County for review and before finally approving elements of design work for construction.

The Designer-of-Record shall conduct and document regular jobsite quality assurance inspections and verify that the Contractor's Vendor's quality control system and construction quality conforms to the record drawings and specifications. The Designer- of-Record shall verify in writing that all partially completed design and construction is in good order before partial payment is claimed by the Design/Build Contractor for those items of work. The Designer-of-Record shall conduct a pre-final inspection, prepare a punch-list and then conduct a subsequent inspection to ensure that all items on the punch- list have been corrected prior to the Design/Build Contractor scheduling the County's final inspection.

DESIGN COMMITMENT: The Design/Build Contractor owns the details of the design during the project and may change them on working drawings and specifications as required to meet the budget and schedule constraints. The Design/Build Contractor can change working drawings to accommodate budget and schedule constraints.

The Designer-of-Record shall establish a drawing and specification numbering system that clearly labels each design product and indicates whether the specific item is a working document subject to unilateral change or a final document. Final documents have been priced, scheduled and approved by the Designer-of-Record for construction.

Once a document has been identified as a final document, then design commitment will have occurred by the Design/Build Contractor. Design commitment means that the feature of work conforms to the Design/Build Contractor's budget, schedule, the quality requirements, and the performance requirements and will be constructed as detailed in the final document. Design commitment must be made prior to submitting a feature of work for final review and approval by the County. The Designer-of-Record will sign and seal all final drawings and specifications.

Any changes to documents for which design commitment has been made will require approval of the County.

1. **SUMMARY:**

Washington County County experienced severe storms and flooding between May 15, 2018 and May 19, 2018. Back Road experienced 525 linear feet of roadway loss, another 725 linear feet of partial road/shoulder damage and significant erosion around the wingwalls of an existing single span concrete slab bridge (Structure 11-03).

This is a Design/Build project, whereby the successful Contractor is responsible for all aspects of the project, including and not limited to: site evaluation/survey, existing and latent conditions, data collection/measurements, planning, design, engineering, material procurement, installation, regulatory permitting and approvals, and other tasks associated with meeting the intent of this specification.

The project is generally located at:

2000 Block of Back Road Sharpsburg, MD 21782
Coordinates: 39.367276,-77.738453

The project shall be broken into three (3) distinct sites as part of the description and scope (Exhibit 1):

SITE 1: Asphalt Road Repairs

Start GPS 39.3664,-77.7391 End GPS 39.3677,-77.7383

The portion of the project requires the construction of approximately 525 linear feet of roadway to repair the flood damaged portion. The repaired road shall be constructed from asphalt and act as a low water crossing. The low water crossing shall be designed

to accommodate the flow of water overtopping the roadway. The work will also require natural stream channel stabilization methods along the west side of the roadway.

SITE 2: Asphalt Road/Shoulder Repairs

Start GPS 39.3677,-77.7382 End GPS 39.3699,-77.7389

This portion of the project requires repairing approximately 725 linear feet of partial roadway/shoulder damage. These repairs shall be in-kind shoulder repairs that stabilize the road, shoulder, and drainage channel.

SITE 3: Bridge Erosion Repair

GPS 39.3677, -77.7382

The scope of work involves replacing the embankment of rock fill, that was washed away by fast moving water, around the structure wingwalls of an existing single span concrete slab bridge. The repair shall also consist placing asphalt to restore the paved approaches that were washed away.

ADD ALTERNATES – This project contains multiple **ADD ALTERNATES**, for pricing purposes, which may or may not be used in the contract. Any combination of Add Alternates may be selected.

ADD ALTERNATE 1 - Site 1 road repairs shall be constructed from concrete, in lieu of asphalt pavement, and act as a low water crossing. The low water crossing shall be designed to accommodate the flow of water overtopping the roadway. The concrete road item was requested by the County as a mitigation element. A concrete road will withstand the flow of water overtopping the roadway more effectively than an asphalt road.

ADD ALTERNATE 2 - The scope of work involves the replacement of the existing single span concrete slab bridge with a new structure/culvert over an unnamed tributary of the Potomac River. The existing structure is not situated adequately relative to the orientation of the stream and is frequently bypassed. The age, condition, and orientation of the structure make replacement a viable option. A hydrology and hydraulic study shall be performed to determine the waterway opening size of the replacement structure; however, it is anticipated to be of similar size to the existing structure.

ADD ALTERNATE 3 - The construction of an additional structure/culvert over an unnamed tributary of the Potomac River. The addition of another drainage structure was a recommendation by a Maryland Department of the Environment (MDE) regulatory and compliance engineer due to the creation of a fork in the stream located just upstream of the existing structure. The existing structure is not situated adequately relative to the orientation of the stream and is frequently bypassed. The storm event resulted in the creation of alternate stream channel and the secondary structure will accommodate the new channel. A hydrology and hydraulic study shall be performed to determine the waterway opening size of the additional structure; however, it is anticipated to be of similar size to the existing structure.

2. PERFORMANCE CRITERIA:**SITE 1: Asphalt Road Repairs**

- A. The road shall be designed and constructed in accordance with the latest edition of the AASHTO'S "A Policy on Geometric Design of Highways and Streets and Maryland's Pavement and Geotechnical Design Guide.
- B. The road shall be designed and constructed to act as a low water crossing to accommodate the flow of water overtopping the roadway. The design shall include the installation of any pipe crossings necessary for roadway drainage.
- C. The road repair shall also include roadway embankment stabilization and natural stream channel stabilization measures. The existing stream channel, located along the west side of the roadway, shall be rehabilitated and redefined along its current flow path to accommodate the reconstruction of the roadway. The natural stream channel repair methods may include, but not be limited to; channel modification, stream bank stabilization, vegetative plantings or brush layering, imbricated rip-rap installation, and erosion and sediment control measures.
- D. Contractor shall comply with all local, state and federal permitting requirements regarding waterways. Stream and embankment stabilization shall follow Maryland's Waterway Construction Guidelines and 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.
- E. The road shall remain closed while work is in progress.

SITE 2: Asphalt Road/Shoulder Repairs

- A. In-kind shoulder repairs shall be designed and constructed to repair the existing roadway (approximately 725 linear feet) to its previous condition. Shoulder repairs may consist of embankment stabilization, subbase stone, full depth asphalt patching, stone for shoulder edge drop off, stabilization matting, and other erosion and sediment control measures.
- B. The road shall remain closed while work is in progress.

SITE 3: Bridge Erosion Repair

- A. Erosion around the wing walls shall be repaired by placing structural fill in accordance with Washington County and Maryland State Highway standards and specifications. Appropriately sized riprap, based on the hydraulic analysis, may be used at the outfall.
- B. The road surface shall be designed and repaired in accordance with the latest edition of the AASHTO'S "A Policy on Geometric Design of Highways and

Streets and Maryland's Pavement and Geotechnical Design Guide.

- C. Approach roadway paving shall be constructed in accordance with Washington County Flexible Pavement Construction Standards for a local road. The limits of paving shall extend 50 feet minimum each way beyond the project limits or damaged roadway at the structure/culvert(s) approaches whichever occurs first.

ADD ALTERNATE 1: Concrete Road In Lieu of Asphalt

- A. The road shall be constructed from concrete, in lieu of asphalt and adhere to all requirements previously listed for Site 1.

ADD ALTERNATE 2: New Structure/Culvert Replacing Existing Bridge

ADD ALTERNATE 3: Additional Structure/Culvert Construction at MDE Recommendation

- A. The structure/culvert(s) shall be designed and constructed in accordance with the latest edition of American Association of State Highway and Transportation Officials Load and Resistance Factor Design (AASHTO LRFD) Box Culvert Design Specifications, Maryland State Highway Standard Specifications for Construction and Materials, and applicable Precast/Prestressed Concrete Institute (PCI) Manuals and Specifications.
- B. The structure/culvert(s) shall, as close as practical, be constructed to match the profile of the existing roadway. The structure/culvert(s) final surface shall be asphalt and consist of a minimum four (4) inches of base and 1.5 inches of surface.
- C. The minimum clear width (inside face of barrier to inside face of barrier) on the structure/culvert(s) shall be 24'-0".
- D. All traffic barrier shall be designed and installed in accordance with Maryland State Highway Administration Standards for Highways and Incidental Structures, Guidelines for Traffic Barrier Placement and End Treatment Design, Bridge Railings NCHRP Report 350 - TL-3 test level, and the AASHTO Roadside Design Guidelines. Traffic barrier anchorages shall be connected to the structure/culvert(s) and the new approach w-beam traffic barriers in accordance with acceptable standards. All traffic barrier shall meet crash test worthiness standards.
- E. Approach roadway paving shall be constructed in accordance with Washington County Flexible Pavement Construction Standards for a local road. The limits of paving shall extend 50 feet minimum each way beyond the project limits or damaged roadway at the structure/culvert(s) approaches whichever occurs first.
- F. The existing structure shall be removed in its entirety. The new structure/culvert(s) shall be constructed of precast or cast in place concrete or

combination thereof. Any concrete wearing surface shall have a mechanically grooved finish. Any gap or separation between the structure/culvert(s) shall be filled with a material approved by the Owner.

- G. The structure/culvert(s), in combination, shall be capable of passing a 10-year design storm (min.) under the structures. The new culverts shall not cause a rise in water surface elevation greater than 0.1 ft. for the 100-year design storm within the study area.
- H. Positive drainage on the culvert deck and road shall be provided; cross slope of the structure/culvert(s) deck shall match the cross slope of the road or as designed by the Engineer. No drainage from the structure/culvert(s) may enter directly into the stream.
- I. The structure/culvert(s) shall be designed and sealed by a licensed registered professional engineer from the state of Maryland. Load rating calculations shall verify the structure does not require a weight restriction posting at the inventory rating level for all four Maryland legal load types (H-15, HS-20, Type 4, Type 3S2). Verify that the inventory rating factor is at a minimum of 1.1 or higher for all vehicle loads.
- J. The Contractor shall remove the existing structure in its entirety and dispose of at an approved location. Disposal of materials shall be in accordance with applicable state and local laws and ordinances.
- K. The structure/culvert(s) shall remain closed while work is in progress.

General

- A. The traffic control devices established by the County will be removed and salvaged by County forces. The Contractor is required to provide a minimum 48-hour advanced notice to the County prior to the start of the Contractor's onsite construction work.
- B. The Contractor shall be responsible for designing and furnishing all traffic control devices and shall take all necessary precautions for the protection of the work and safety of the public to protect the work zone. This includes removing and resetting the barriers each day to maintain a safe work zone. All traffic control devices, methods, and materials used shall conform to the applicable specifications and shall adhere to the Manual of Uniform Traffic Control Devices (MUTCD), latest edition. The County shall be responsible for any detour route traffic control signs.
- C. The Contractor shall maintain ingress/egress to all driveways, mailboxes, and properties at all times.
- D. The Contractor shall place white edge line and yellow centerline waterborne pavement markings within the work area and install object marker signs at each corner of the structure/culvert(s) in accordance with the MUTCD.
- P. The Contractor is solely responsible for construction quality control inspection

and material testing as well as for quality assurance of both the design and construction.

- Q. All work shall be performed in a workmanlike manner and in accordance with the standard of care applicable to contractors and designers.
- R. The Contractor is responsible for following all applicable safety requirements including adhering to Maryland Occupational Safety and Health (MOSH) / Occupational Safety and Health Administration (OSHA).

3. **SUBMITTALS:**

The Contractor/Engineer shall provide the Owner with all design and final as-built engineering design drawings and structural calculations, performance specifications, and testing reports/results to demonstrate compliance with the criteria described herein.

4. **NONCONFORMING WORK-REJECTION, REMOVAL, REPLACEMENT OF WORK:**

The Owner has the right, in its sole discretion, to Accept or reject Nonconforming Work. The Contractor shall remove and replace rejected Nonconforming Work so as to conform to the requirements of the Contract Documents, at Contractor's expense and without any time extension; and Contractor shall promptly take all action necessary to prevent similar deficiencies from occurring in the future. The fact that the Owner may not have discovered the Nonconforming Work shall not constitute an Acceptance of such Nonconforming Work. If the Contractor fails to correct any Nonconforming Work within five Days of receipt of notice from the Owner requesting correction (or, for Nonconforming Work which cannot be corrected within five Days, if Contractor fails to provide to the Owner a schedule for correcting any such Nonconforming Work Approved by the Owner within such five-Day period, begin correction within such five-Day period and thereafter diligently prosecute such correction in accordance with such Approved schedule to completion), then the Owner may cause the Nonconforming Work to be remedied or removed and replaced, and may deduct the cost of doing so from any moneys due or to become due Contractor and/or obtain reimbursement from Contractor for such cost.

5. **GEOTECHNICAL DESIGN DATA**

The Design Builder shall plan a geotechnical exploration program and testing as necessary and as required to meet AASHTO and MDSHA design standards for their proposed design. Information about any proposed program and testing shall be provided in the Proposal.

Upon award of the contract, the selected Design Builder shall engage the services of a qualified geotechnical engineer licensed in the state of Maryland to perform any necessary geotechnical engineering evaluations and analyses for all aspects of the proposed project designs and to complete the design geotechnical reports(s) based on the Contractor's structure/culvert(s) design. The design geotechnical report(s) shall be submitted to the County for review and comment at various stages of the design. The geotechnical engineer shall be considered qualified if they have geotechnical experience on at least five (5)

structure/culvert projects, three (3) roadway projects, and three (3) stream restoration projects completed for a local or state agency. The qualifications of the geotechnical engineer shall be submitted for approval and the County reserves the right to deny approval if the qualifications are considered inadequate.

6. ADDITIONAL DESIGN AND PERFORMANCE CRITERIA

- A. All structure/culvert components should be designed in accordance with the most current AASHTO LRFD Box Culvert Design Specifications and MDSHA Box Culvert Design Specifications.
- B. All road components shall be designed and constructed in accordance with the latest edition of the AASHTO'S "A Policy on Geometric Design of Highways and Streets and Maryland's Pavement and Geotechnical Design Guide.
- C. All construction materials should be in accordance with 2018 MDOT SHA Standard Specifications.
- D. Corrosion resistant epoxy coated reinforcing steel shall be used in all proposed reinforced concrete road, abutment, and culvert components.
- E. The structure/culvert(s) should be designed to minimize or eliminate transverse roadway joints in the deck (i.e. finger joints, strip seals and compression joints).
- F. The structure/culvert(s) shall not use any elements that require confined entry for inspection.
- G. The concrete road and structure/culvert(s) shall have as built survey drawings.
- H. The structure/culvert(s) shall conform to MDOT Bridge Scour Standards (Abscour) and include a Scour Analysis Report.
- I. Contractor shall follow Maryland's Waterway Construction Guidelines and 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.
- J. Project shall conform with the NRCS Natural Stream Restoration Design standards and meet MDE project requirements, including but not limited to obtaining a Joint Waterway Construction Permit.
- K. Project shall conform to Washington County Stormwater Design Standards.
- L. Design Builder will need to prepare all plans necessary for Soil Conservation District Approval and complete a Joint Waterway Construction Permit for the structure/culvert(s). The Design Builder is then to abide by all regulations set forth by the Soil Conservation District and MDE for the construction of the structure/culvert(s).
- M. The design for the new structure/culvert(s) shall NOT incorporate the following:
 - Timber Elements
 - Fiber reinforced polymer elements
 - Fracture critical elements
 - Exposed steel substructure components, structural or otherwise
 - Open deck grating or orthotropic decks
 - Reuse of any existing structure/culvert components in the completed project for any purpose, including scour protection

7. RIGHT OF WAY

The proposed roadway and structure/culvert(s) repairs are to be constructed within the existing thirty (30) foot right-of-way (ROW) and prescriptive easements. All improvements are anticipated to occur inside of the existing ROW defined in the attached right of entry

agreements (Exhibit 05) provided in the contract documents. The Contractor shall be advised of the conditions specified in the agreements. If the Design-Builder wishes to extend their work outside of these areas, all cost shall be borne by the Design Builder. Any and all costs for the Design-Builder's convenience, including operations, conveyance of materials, staging areas, office locations, and any other temporary or permanent property rights not specifically required for the construction of the project, as solely determined by the County, are not included in this payment provision and must be included in the Design-Builder's Price Proposal.

The Design-Builder shall complete a Special Use Permit application, through the National Park Service, and obtain a permit prior to the start of construction (Exhibit 05).

8. DESIGN-BUILDER BID AWARD SELECTION PROCESS

The total base bid, plus any add alternates, will be used as a basis for evaluation of the bids and award of the Contract. Any combination of Add Alternates may be selected. If an award of contract is made, it will be made to the lowest, responsive, responsible Bidder within the time specified for bids to remain irrevocable. In addition to the provided bid forms, the following information shall be included in the bid and used as a basis to evaluate a bidder's responsiveness and ability to complete the project.

1. The Contractor shall provide an itemized cost for each of the In-Kind items and ADD ALTERNATE items as listed in the Bid Forms section. The Contractor shall also provide a total dollar figure to complete all work described for the project on page BF-4. **Upon award, the Contractor shall provide a Schedule of Values, including a description of work, for review and approval by the County.**
2. Provide a list of projects completed by your firm in which the professional engineering, design, bidding, construction and administration services for maintenance and repair items for bridges, as well as the complete scope of the design-build that are similar or were exceeded. Describe each project in sufficient detail to demonstrate the similarity and provide corresponding contacts for references.
3. Confirm your ability to commence the work immediately upon processing of the contract documents should your firm be awarded the contract. Provide an attainable project schedule based upon your anticipated design and starting date.
4. Provide a project narrative that includes the anticipated structure type, project management approach, and method for completion.
5. Provide a list and individual qualifications/experience of your staff that would be utilized in this design/build. Provide a list of anticipated subcontractors, if any, and itemize their work in the project.
6. Provide a certificate of insurance for the Designer of Record and Contractor that meets the County's Insurance Policy Requirements

9. CONSTRUCTION WORK HOURS

Design-builder shall be advised that construction working hours are limited to 7 a.m. to 7 p.m. There will be **NO** restrictions for working on weekends or Holidays. If the Contractor would like to modify work hours, submit a request to the Owner in writing with at least 72 hours notice. Do not implement any changes until written approval from the Owner is received.

Bid Forms

BID FORMS

COUNTY CONTRACT NO. RD-BR-272-10

BID FORMS

BACK ROAD REPAIR

COUNTY CONTRACT NO. RD-BR-272-10

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This project contains multiple **ADD ALTERNATES**, for pricing purposes, which may or may not be used in the contract. The contract will be awarded to the lowest responsive and responsible bidder who has the lowest base bid with any Add Alternate(s) selected; upon evaluation and review of the available budget. Any combination of Add Alternates may be selected.

Example:

Site 1: Asphalt Road Repairs = \$250,000

Add Alternate 1: Concrete Road in Lieu of Asphalt = \$400,000

\$400,000 minus \$250,000 = \$150,000 for Add Alternate 1

The Contractor shall provide an itemized cost for each of the In-Kind items and ADD ALTERNATE(S) items as listed in the Bid Forms section. The Contractor shall also provide a total dollar figure to complete all work described for the project on page BF-4. Upon award, the Contractor shall provide a Schedule of Values, including a description of work, for review and approval by the County.

BID FORMS

COUNTY CONTRACT NO. RD-BR-272-10

SITE	QUANTITY	UNIT	ITEM DESCRIPTION	UNIT PRICE		ITEM TOTAL	
1			ASPHALT ROAD REPAIRS	_____	___	_____	___
2			ASPHALT ROAD/SHOULDER REPAIRS	_____	___	_____	___
3			BRIDGE EROSION REPAIR	_____	___	_____	___
ADD 1			ADD ALTERNATE 1 – CONCRETE ROAD IN LIEU OF ASPHALT	_____	___	_____	___
ADD 2			ADD ALTERNATE 2 – NEW BOX CULVERT REPLACING EXISTING BRIDGE	_____	___	_____	___
ADD 3			ADD ALTERNATE 3 – ADDITIONAL BOX CULVERT CONSTRUCTION AT MDE RECOMMENDATION	_____	___	_____	___
Total This Sheet						_____	___

PROPOSAL FORM

BACK ROAD REPAIR

COUNTY CONTRACT NO. RD-BR-272-10

THE BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY
HAGERSTOWN, MARYLAND

Proposal of

(Name)

(Address)
to furnish and deliver all materials and to do and perform all work in accordance with Plans, Specifications, General Conditions, Special Provisions, Bid Documents and Contract Documents relating to the **BACK ROAD REPAIR** in Washington County, State of Maryland, on which proposals will be received until **11:00 A.M.** on **Friday, May 3, 2019**, this work being situated as follows: **BACK ROAD, SHARPSBURG, MD.**

TO: The Board of County Commissioners of
Washington County, Maryland
100 W. Washington Street
Hagerstown, MD 21740

Gentlemen:

Having carefully examined the Plans, Specifications, General Conditions, Special Provisions, Bid Documents and Contract Documents for the work herein before named, and in conformity with the Specifications, I/We hereby certify that I/We am/are the only person or persons interested in this proposal as principal(s), that it is made without collusion with any person, firm or corporation; that an examination has been made of the Plans, Specifications, General Conditions, Bid Documents and Contract Documents, including the Special Provisions contained herein, and of the site of the work, and propose to furnish all necessary machinery, plant, equipment, tools, labor and other means of construction, and furnish all materials specified, in the manner and at the time prescribed, and perform all work for the sum of

(Written Words)

(Figures)

BID FORMS

COUNTY CONTRACT NO. RD-BR-272-10
BID AFFIDAVIT

1. Authorized Representative:

I HEREBY DECLARE AND AFFIRM that I am _____
(Title)

and duly authorized representative of firm of _____ whose
address is _____ and that I am
duly authorized on behalf of said firm to make this Affidavit.

2. Bribery:

I FURTHER DECLARE AND AFFIRM that neither I, nor, to the best of my knowledge,
information and belief, the above firm, nor any officer, director or partner of the above
firm, nor any employee of the above firm directly involved in obtaining contracts with
the State of Maryland, or any county or other subdivision of the State of Maryland, has
been convicted* of bribery, attempted bribery, or conspiracy to bribe under the laws of
any state or the Federal Government; except as herein expressly stated (if any):

_____.

* As used herein, the word "convicted" includes an accepted plea of nolo contendere.

3. Non Collusion:

In connection with the firm's price proposal for the above-captioned Contract, as
submitted to Washington County, I HEREBY DECLARE AND AFFIRM, to the best of
my knowledge, information and belief, that:

- a. Said proposal has been independently prepared without collusion by any officer,
director, partner, employee or other representative of this firm, with any other
proposer, or with any competitor; that

BID FORMS**COUNTY CONTRACT NO. RD-BR-272-10**

- b. No attempt has been or, hereafter, will be made by any officer, director, partner, employee or other representative of this firm to induce any other person, firm or entity to submit or not submit a proposal; that
- c. Any unit or total price in this proposal has not been knowingly disclosed and will not be knowingly disclosed prior to its official opening, directly or indirectly, to any other bidder or to any competitor; and, that
- d. I have fully informed myself regarding the accuracy of the statements contained herein.

I acknowledge that this Affidavit is to be furnished to the Secretary of the Maryland Department of Transportation and may be distributed to boards, commissions, administrations, departments and agencies of the State of Maryland, counties or other subdivisions of the State of Maryland, other States and Federal Government. I further acknowledge that this Affidavit is subject to applicable laws of the State of Maryland, both criminal and civil, and that this Affidavit is to be attached to and become a part of the Contract when and if awarded and executed.

BID FORMS

COUNTY CONTRACT NO. RD-BR-272-10

I FURTHER HEREBY DECLARE AND AFFIRM that I and the firm I herein represent, acknowledge and agree that if any misrepresentation is herein made, the Board of County Commissioners of Washington County, Maryland in their discretion, shall have the right to reject this proposal or terminate the Contract, without liability, as the case may be.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

By: _____
Signed Name of Affiant

Date _____

Typed Name

Title

For: _____
Firm

State of _____:

County (City) of _____:

On this _____ day of _____, 20__,

before me, _____, the undersigned officer, personally appeared _____

known to me to be the person described in the foregoing Affidavit and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public

SEAL

My Commission Expires _____

CERTIFICATION OF WORK CAPACITY

I do solemnly declare and affirm that the firm stated below has the equipment, labor, supervision and financial capacity to perform this Contract either with our organization or with Subcontractors, as provided in GP-Section 8 of the MDOT SHA Standard Specifications.

We shall supply such additional information as may be required in accordance with GP-Section 3 of the MDOT SHA Standard Specifications.

By: _____
Signed Name of Affiant

Date _____

Typed Name

Title

For: _____
Firm

Sworn to before me this _____ day of _____, 20__

Notary Public

SEAL

My Commission Expires _____

BID FORMS

COUNTY CONTRACT NO. RD-BR-272-10
SUB-CONTRACTOR LISTING

The Contractor will name below the Item or Items he proposes to sublet, their dollar value, the name of the subcontractor or subcontractors and check the "Minority Business Enterprise" column if the named subcontractor so considers itself as per the definition contained elsewhere herein these specifications.

TASK ITEM	DOLLAR VALUE	SUBCONTRACTOR	MINORITY BUSINESS ENTERPRISE

PROPOSAL GUARANTY

The amount and type of the proposal guarantee which shall be attached to and submitted with the bid depends upon the amount of the bid as stated below:

A Bid Security of \$500.00 will be required on Contract Proposals under \$20,000.

A Bid Security totaling 5% of the bid amount will be required on Contract Proposals of \$20,000 or over.

Acceptable security for bids shall be as follows:

1. A bond in a form satisfactory to the County underwritten by a company licensed to issue bonds in this State;
2. A bank certified check, bank cashier's check, bank treasurer's check, or cash

I/We understand that the quantities of work as shown herein are approximate only and are subject to increase or decrease, and further understand that all costs in connection with the complete performance of the work as described in the Plans, Specifications, General Conditions Special Provisions, Bid Documents and Contract Documents shall be included in the Contract price bid for the entire work to be performed under this Contract.

IT IS FURTHER PROPOSED:

To do all "Extra Work" which may be required to complete the work contemplated at unit prices or lump sums to be agreed upon in writing prior to starting such extra work, or, if such prices or sums cannot be agreed upon, to perform such work on a "Force Account" basis, as provided for in Section 9, GP-9.02, of the MDOT SHA Standard Specifications.

To begin work as specified in the "Notice to Proceed" and to prosecute said work so as to complete the Contract within **300** consecutive calendar days.

To furnish a Payment Bond, and a Labor and Material Payment Bond, in the full amount of Contract award, as security for the construction and completion of the Contract in accordance with the Plans, Specifications, General Conditions, Special Provisions, Bid Documents and Contract Documents.

To guarantee all of the work performed under this Contract to be done in accordance with the Plans, Specifications, General Conditions, Special Provisions, Bid Documents and Contract Documents in a good workmanlike manner and to renew or repair any work which may be rejected due to defective materials or workmanship, prior to final completion and acceptance of the work.

Enclosed herewith find certified cashier's or treasurer's check or bid bond in the amount of _____ Dollars (\$_____) made payable to the "Board of County Commissioners of Washington County, Maryland". This certified cashier's or treasurer's check or bid bond in a Proposal Guarantee (which is understood will be forfeited in the event

BID FORMS

COUNTY CONTRACT NO. RD-BR-272-10

the Form or Contract is not executed, if awarded to the undersigned), is based on the aggregate amount of the bid submitted.

(For execution by Individuals and Partnerships or Corporations)

FOR INDIVIDUALS AND PARTNERSHIPS:

Name: _____

By: _____
(Member) (Seal)

By: _____
(Member) (Seal)

Witness: _____

FOR CORPORATIONS:

Name: _____

By: _____
(President) (Seal)

Attest: _____
(Secretary)

The Proposal Form shall be filled out in ink. The Proposal, if submitted by an individual, shall be signed by an individual; if submitted by a partnership, shall be signed by such member or members of the partnership as have authority to bind the partnership; if submitted by a corporation the same shall be signed by an officer and attested by the Secretary or an Assistant Secretary. If not signed by an officer, as aforesaid, there must be attached a copy of that portion of the by-laws, or a copy of a Board Resolution, duly certified by the Secretary, showing the authority of the person so signing on behalf of the corporation. In lieu thereof, the corporation may file such evidence with the Board of County Commissioners of Washington County, Maryland duly certified by the Secretary, together with a list of the names of those officers having authority to execute documents on behalf of the corporation, duly certified by the Secretary, which listing shall remain in full force and effect until such time as the Board of County Commissioners of Washington County, Maryland is advised in writing to the contrary. In any case where a Proposal is signed by an Attorney-in-Fact a copy of the appointing document, duly certified must accompany the same.

BID LETTER

In order for a Proposal to be considered, it is necessary that the following guaranty from Surety be executed.

The _____ agrees to act as surety for _____
(Name of Bonding Company) (Name of Bidder)

and to furnish the full amount of Proposal Guaranty as required by GP-Section 2 of the MDOT SHA Standard Specifications.

The aforementioned Bonding Company will also furnish the full amount of the Performance Bond and Labor and Material Payment Bond as required by GP-Section 3 of the MDOT SHA Standard Specifications.

The guaranty is effective for the 90 days following the bid opening date, as specified in GP-Section 3 of the MDOT SHA Standard Specifications, unless this time period is modified by the Special Provisions or extended by mutual agreement between the County, the Bonding Company, and the Contractor.

WITNESS:

(Date)

(Typed Name of Surety)

(Signed Name of Surety)

(Typed Name and Title of Witness)

(Signed Name of Witness)

(Seal)

(Typed Name and Telephone Number of local agent)

NOTE 1: Signatories other than Principals must attach "Power of Attorney". Failure to execute the Contract and file acceptable Performance and Payment Bonds shall preclude awarding the Contract and require forfeiture of the Proposal Guaranty, all as detailed in GP-Section 3 of the MDTO SHA Standard Specifications.

NOTE 2: Failure of the Bidder to execute the Contract and file acceptable security shall be just cause for annulment of the award and the forfeiture of the proposal guaranty, which shall become property of the County as sustained liquidated damages. Award may then be made to the next lowest responsive, responsible Bidder or the work may be re-advertised. Failure to have this Bid Letter executed by Surety and submitted with Proposal will result in rejection of Bid.

BID FORMS

COUNTY CONTRACT NO. RD-BR-272-10

BID BOND

A Bid Bond shall be submitted on American Institute of Architects Document A310, February 1970 Edition; to be furnished by the bidder.

BF-13

Contract Forms

CONTRACT FORMS

BACK ROAD REPAIR

COUNTY CONTRACT NO. RD-BR-272-10

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Addendum.....	Attached as Needed

BOARD OF COUNTY COMMISSIONERS
OF
WASHINGTON COUNTY, MARYLAND

CONTRACT DOCUMENTS

Contract No.: County Contract No. RD-BR-272-10, Project No. 10-272

Project Name: BACK ROAD REPAIR

Project Location: BACK ROAD, SHARPSBURG, MD

Date Bid Opened: _____

Date Bid Awarded: _____

Contractor: _____

INSTRUCTIONS**BACK ROAD REPAIR****EXECUTION OF CONTRACT FORM**

This document shall form the basis of the Contract. The Board of County Commissioners of Washington County, Maryland (the "County"), will insert variable data in pertinent spaces and forward the form, in duplicate, with separate original Performance Bond and Labor and Material Payment Bond forms to the individual, corporation, or other legal entity that has been previously notified of the award of the subject contract (the "Contractor"). The Contractor and surety company shall fully complete the forms and return them to the County.

It is understood and acknowledged by all parties to the Contract that the Specifications referred to herein, the Special Provisions that were attached to the Proposal Form, and all approved drawings are incorporated herein as a part hereof, even though not physically attached hereto.

PARTNERSHIPS:

If the principal is a partnership, the full names of all partners must be inserted in both the Contract and the bonds which must recite they are the partners composing the partnership (to be named), and all partners must execute the Contract and the bonds as individuals.

CORPORATIONS:

The state in which the Contractor was organized must be inserted in the Contract and the bonds. The documents must be executed under the seal of the entity and attested to by the secretary or other appropriate officer. The execution must conform exactly with the correct legal name of the entity. If executed by an officer other than the President, evidence of authority to do so must be furnished, generally in the form of a resolution of the entity.

BONDS:

The date of the bonds must be that of the Contract or subsequent thereto. A certified copy of the power of attorney of the attorney-in-fact executing the bonds must bear the same date as the bonds and must be attached to each copy of the bonds.

As required by Section 3, GP 3.03 of the MSHA Specifications, the name of the underwriting agency or agent must be shown in the space provided on both the Performance Bond and Labor and Material Payment Bond.

CONTRACT

BACK ROAD REPAIR

THIS CONTRACT (the "Contract") is made this ____ day of _____, 20__, by and between the **Board of County Commissioners of Washington County, Maryland**, a body corporate and politic and a political subdivision of the State of Maryland (the "County"), and _____, a corporation authorized to do business in the State of Maryland, its successors and assigns (the "Contractor").

NOW, THEREFORE, in consideration of the covenants, conditions, terms, obligations, and the payment or payments herein specified, the parties hereby agree as follows:

1. The Contractor shall furnish and deliver all the materials and equipment and perform all the work and labor in the improvement of _____ the _____ in Washington County, Maryland, at the unit prices bid by said Contractor for the respective estimated quantities, aggregating approximately the sum of _____ (\$ _____) and such other items as are mentioned in the Proposal.
2. The completed Form of Proposal and the Contract Plans and Specifications for the _____ improvement project are incorporated herein by reference and made a part hereof.
3. The said improvement project is described as follows:

_____.
4. All work and labor relating to this _____ improvement project shall be performed and completed in the best and most workmanlike manner and all of said materials and labor shall be in strict conformity with this Contract and shall be subject to the inspection and approval of the County's Director of Engineering or his duly authorized representative (the "Engineer"). In case any of said material or labor should be rejected by the Engineer as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew, to the satisfaction and approval of the Engineer at the sole expense of the Contractor.
5. The Contractor shall furnish and deliver said materials and perform and complete all said labor in every respect to the satisfaction and approval of the Engineer. Unless

otherwise expressed in the Special Provisions in the Contract, the work shall commence within ten (10) calendar days after the Engineer issues the written notice to proceed, and shall be completed within the time prescribed.

6. In case of the failure on the part of the Contractor, for any reason, to complete the delivery of the materials and performance of said work within the specified contract time, except by written change order duly executed by the County, the County shall have the right to deduct from any monies due or which may become due the Contractor, or if no monies shall be due or may become due the Contractor, the County shall have the right to recover the amount of **Five Hundred Dollars (\$500.00)** per calendar day for each and every calendar day elapsing between the time stipulated for substantial completion and the actual date of substantial completion; said deduction to be made or said sum to be recovered, not as a penalty, but as liquidated damages. Provided, however, that upon receipt of written notice from the Contractor of the existence of causes over which said Contractor has no control and which must delay the completion of said work, the County may, at its sole discretion, extend the period hereinbefore specified for the completion of the said work, and in such case the Contractor shall become liable for said liquidated damages for delays commencing from the date on which said extended period shall expire.
7. The County shall not recognize any claims for extra work performed or materials furnished by the Contractor, nor shall the Contractor perform any work or furnish any materials not covered by the Plans and Specifications, without the prior written approval of the Engineer. Any such work performed, or materials furnished by the Contractor without such prior written approval shall be at said Contractor's own risk, cost and expense, and the Contractor hereby agrees and acknowledges that without such prior written approval, no claim for compensation for work so performed or materials so furnished by the Contractor shall be a valid claim under the terms of this Contract.
8. The Contractor shall not assign this Contract or any part thereof, or any right to any of the monies to be paid hereunder, nor any part of the work performed or material to be furnished under this Contract, without the prior written consent of the Washington County Director of Engineering.
9. The acceptance of the final payment by the Contractor shall be a full release of all claims against the County or its members, elected officials or employees, arising out of, or by reason of, the work done and materials furnished under this Contract.
10. The Performance Bond and Labor and Material Payment Bond provided by the Contractor, each in a sum equal to the total contract price of the work to be performed, to secure a proper compliance with the terms and provisions of this Contract, are incorporated herein by reference and made a part hereof.

11. Receipt by the Contractor of the prices set forth in the Proposal shall be full compensation for furnishing all equipment, materials and labor that may be required under this Contract.
12. In accordance with Md. Code, State Finance and Procurement Article, § 17-402, Contractor shall comply with any of the political contribution reporting requirements under Md. Code, Election Law Article, Title 14, to which the Contractor may be subject.
13. Miscellaneous Provisions.
 - a) Assignment; Binding Effect. Neither party may assign or transfer this Contract or any rights or benefits under this Contract to any person or entity without the prior written approval of the other party.
 - b) Remedies Not Exclusive. The rights and remedies provided in this Contract are cumulative and not exclusive and are in addition to any other rights and remedies the parties may have at law or otherwise.
 - c) Waiver. Neither party's waiver of the other's breach of any term, covenant or condition contained in this Contract shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition in this Contract.
 - d) Headings. The headings appearing in this Contract are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any section of this Contract.
 - e) Survival. The covenants contained in or liabilities accrued under this Contract which, by their terms, require their performance after the expiration or termination of this Contract shall be enforceable notwithstanding the expiration or other termination of this Contract.
 - f) Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Maryland.
 - g) Severability. If any provision of this Contract shall be determined to be invalid or unenforceable, the remaining provisions of this Contract shall not be affected thereby, and every provision of this Contract shall remain in full force and effect and enforceable to the fullest extent permitted by law.
 - h) Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.
 - i) Entire Contract; Modification. This Contract, and the materials and documents incorporated herein by reference, constitute the entire Contract between the

parties. There are no promises or other agreements, oral or written, express or implied, between the parties other than as set forth in this Contract. No change or modification of, or waiver under, this Contract shall be valid unless it is in writing and signed by duly authorized representatives of the parties.

- j) Force Majeure. The failure of any party to perform its obligations hereunder shall be excused if the party's nonperformance is due to an act of God, flood, earthquake or similar natural occurrence, an act of the public enemy, war, insurrection, riot, strikes by persons not employed by or under control of the nonperforming party, fire, explosion or other casualty. Nonperformance shall not be excused for any reason if the event or condition causing the nonperformance is the result of one or more willful or negligent acts or omissions, or a lack of due diligence, on the part of the nonperforming party, or any of its employees, agents, or contractors.
- k) Effectiveness. This Contract shall become effective upon and only upon its execution and delivery by each party hereto, and upon receipt of formal approval by the Board of County Commissioners of Washington County, Maryland, which is the duly constituted executive and legislative body of the County.
- l) Notice. Notice under this Contract shall be sufficient if sent to the following:

To the County:
Director Engineering
80 West Baltimore Street
Hagerstown, Maryland 21740

With a copy to:
County Attorney
100 West Washington Street, Room 202
Hagerstown, MD 21740

To: _____

Attn: _____

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Contract under their respective seals under the day and year first written above.

Attest:

Corporate Secretary

Name of Corporation
By: _____ (SEAL)
Officer of Corporation

Attest:

Krista Hart, County Clerk

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND
By: _____ (SEAL)
Jeffrey A. Cline, President

Approved for Execution:

Scott Hobbs, P.E., Director of Engineering

Approved as to form and legal sufficiency:

Kirk C. Downey
County Attorney

CONTRACT AFFIDAVIT

BACK ROAD REPAIR

In connection with the above-captioned Contract:

- 1. Authorized Representative:

I HEREBY DECLARE AND AFFIRM that I am the _____ (Title)

and the duly authorized representative of _____ (Name of Corporation)

whose address is _____

- 2. Corporate Registration: (Applicable to corporations only)

I FURTHER DECLARE AND AFFIRM that the firm named above is a domestic /___/ foreign /___/ corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all its annual reports together with its filing fees with the Maryland State Department of Assessments and Taxation, AND THAT THE NAME AND ADDRESS OF ITS RESIDENT AGENT FILED WITH THE MARYLAND DEPARTMENT OF ASSESSMENTS AND TAXATION IS:

(NAME) _____

(ADDRESS) _____

- 3. Contingent Fees:

I FURTHER DECLARE AND AFFIRM that neither I, nor to the best of my knowledge, information and belief, the above firm nor any of its other representatives I here represent have:

- a. Employed, retained or otherwise engaged for a commission, percentage, brokerage, contingent fee, or other consideration, any person, partnership, corporation, or other entity, other than a bona fide employee or agent working solely for me or the above firm to solicit or secure this Contract;

- b. Agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any person, partnership, corporation, or other entity, in connection with carrying out this Contract; or,
- c. Paid, or agreed to pay, to any person, partnership, corporation, or other entity, other than a bona fide employee or agent working solely for me or the above firm, any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this Contract.

except as here expressly stated (if any): _____

4. Bribery:

I FURTHER DECLARE AND AFFIRM that neither I, nor, to the best of my knowledge, information and belief, the above firm, nor any officer, director or partner of the above firm, nor any employee of the above firm directly involved in obtaining Contracts with the State of Maryland, or any county or other subdivision of the State of Maryland, has been convicted* of bribery, attempted bribery or conspiracy to bribe, nor has engaged in conduct, or by any acts or omissions, made admissions in writing or under oath during the course of an official investigation or other proceedings, since July 1, 1977, which would constitute an offense or offenses of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the Federal Government; except as herein expressly stated if any:

* As used herein, the word "convicted" includes an accepted plea of nolo contendere.

5. Truth in Negotiation: (Applicable to consultant contracts)

I FURTHER DECLARE AND AFFIRM that I am aware of, that the above firm will comply with and that this Contract is subject to the provisions of the Annotated Code of Maryland which require that any contract for architectural or engineering services costing over \$25,000 not be awarded unless the firm first executes a truth-in-negotiation certificate. It is understood that the terms and provisions hereof shall likewise apply to any future legislative changes made thereto. I further declare and affirm that wage rates and other factual unit costs supporting the compensation in this Contract are accurate, complete and current as of the time of contracting. Furthermore, I, on behalf of the above firm, acknowledge and agree that the original price of this Contract and any additions to this Contract will be adjusted to exclude any significant sums if the Maryland Board of Public Works determines that the price was increased due to inaccurate, incomplete or noncurrent wage rates or other actual unit costs; said adjustments to be made within one year after the end of the Contract.

6. Truth in Negotiations: (Applicable to construction contracts)

I FURTHER CERTIFY THAT I am aware of and that the above firm will comply with and that this Contract is subject to the provisions of the Annotated Code of Maryland, which requires that a negotiated or change order Contract for construction in excess of \$10,000 may not be awarded unless the contractor first executes a truth-in-negotiation certificate. It is agreed that the terms hereof shall likewise apply to any future legislative changes made thereto.

I FURTHER DECLARE AND AFFIRM that wage rates and other factual unit costs supporting the compensation in this Contract are accurate, complete and current as of the time of contracting. Furthermore, I, on behalf of the above firm, acknowledge and agree that the original price of this Contract and any additions to this Contract will be adjusted to exclude any significant sums if the Maryland Board of Public Works determines that the price was increased due to inaccurate, incomplete or non-current wage rates or other actual unit costs; said adjustments to be made within one year after the end of the Contract.

7. Mandatory Disclosure of Ownership:

I FURTHER DECLARE AND AFFIRM that I am aware of and that the above firm will comply with the provisions of the Annotated Code of Maryland, which requires that every business that enters into Contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall within 30 days of the time when the aggregate value of these Contracts, leases or other agreements reaches \$100,000, file with the Maryland Secretary of State certain specified information to include disclosure of beneficial ownership of the business

I ACKNOWLEDGE that this Affidavit is to be furnished to the Secretary of the Maryland Department of Transportation and may be distributed to boards, commissions, administrations, departments and agencies of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and, (4) the Federal Government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or the Contract shall be construed to supersede, amend, modify or waive, on behalf of the Maryland Department of Transportation, the Maryland Board of Public Works and any other office or agency of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the Laws of Maryland in respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above firm in respect to (1) this Affidavit, (2) the Contract, and (3) other Affidavits comprising part of the proposal documents associated with the Contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

By: _____
Signed Name of Affiant

Date _____

Typed Name

Title

For: _____
Firm

State of _____:

County (City) of _____:

On this _____ day of _____, 2019,

before me, _____, the undersigned officer, personally appeared _____

known to me to be the person described in the foregoing Affidavit and acknowledged that he (she) executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public

SEAL

My Commission Expires _____

PERFORMANCE BOND

Board of County Commissioners of Washington County, Maryland

BACK ROAD REPAIR

Bond No.: _____ Bond Date: _____ Contract No.: _____

KNOW ALL MEN BY THESE PRESENTS, that we

(Here insert full name and address or legal title of Contractor, including zip code)

a corporation of the State of _____ and authorized to do business in the State of Maryland,
hereinafter called the “Principal” and

(Here insert full name and address or legal title of Surety, including zip code)

hereinafter called the “Surety”, are held and firmly bound unto the Board of County Commissioners of Washington County, Maryland, hereinafter called the “County”, Sum of _____ Dollars and _____ Cents (\$ _____) lawful money of the United States for the payment of which sum well and truly to be made, the Principal and the Surety bind themselves, their heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into or will enter into a contract with the County, for

(Here insert Project name, description, and location)

The contract referenced above and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as the “Contract”.

NOW, THEREFORE, during the original term of said Contract, during any extensions thereto that may be granted by the County, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Contract; and
2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

Whenever Principal shall be declared by the County to be in default under the Contract, the Surety may, within fifteen (15) days after notice of default from the County, notify the County of its election to either promptly proceed to remedy the default or promptly proceed to complete the contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the County thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety 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 of the Specifications accompanying the same shall in any way affect its obligations on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder of the specifications accompanying the same.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution or power of attorney authorizing such action, and each such duly authorized representative to sign below and to set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

Signed, and sealed this _____ day of _____, 20____, in four counterparts each of which shall without proof of accounting for the other counterparts be deemed an original hereof.

ATTEST:

PRINCIPAL:

(Typed Name and Title)

(Typed Name of Principal)

(Signed Name and Title)

By: _____ (SEAL)
(Signed Name of Principal)

(Typed Name and Telephone Number of Contact)

ATTEST:

SURETY:

(Typed Name and Title)

(Typed Name of Surety)

(Signed Name and Title)

By: _____ (SEAL)
(Signed Name of Surety)

(Typed Name and Telephone Number of Local Agent)

LABOR AND MATERIAL PAYMENT BOND
Board of County Commissioners of Washington County, Maryland

BACK ROAD REPAIR

Bond No.: _____ Bond Date: _____ Contract No.: _____

KNOW ALL MEN BY THESE PRESENTS, that we

(Here insert full name and address or legal title of Contractor, including zip code)
hereinafter called the “Principal” and

(Here insert full name and address or legal title of Surety, including zip code)

a corporation organized and existing under the laws of the State of _____, and authorized to transact business in the State of Maryland, hereinafter called the “Surety”, are held and firmly bound unto the Board of County Commissioners of Washington County, Maryland, a body corporate and politic, hereinafter called the “County”, for the use and benefit of claimants as hereinafter defined, in the Penal Sum of _____ Dollars and _____ Cents (\$ _____) lawful money, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into or will enter into a contract with the County, for

(Here insert Project name, description, and location)

The contract referenced above and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as the “Contract”.

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials furnished, supplied and reasonably required for use in the performance of the Contract, then this obligation shall be null and void, otherwise it shall remain in full force and effect, subject to the following conditions:

1. A **Claimant** is defined to be any and all of those persons supplying labor and materials (including lessors of the equipment to the extent of the fair market value thereof) to the Principal or its subcontractors and sub-subcontractors in the prosecution of the work provided for the Contract, entitled to the protection provided by Md. Code Ann., State Finance and Procurement Article, §17-101, *et seq.*, as from time to time amended.
2. The above-named Principal and Surety hereby jointly and severally agree with the County that every claimant as herein defined, who has not been paid in full may, pursuant to and when in compliance with the provisions of the aforesaid State Finance and Procurement Article, §17-101, *et seq.*, sue on this Bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as

may be justly due claimant and have execution thereon. The County shall not be liable for the payment of any costs or expenses of any such suit.

The Surety 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 of the Specifications accompanying the same shall in any way affect its obligations on this Payment Bond, and it 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 the Specifications.

This Payment Bond shall be governed and construed in accordance with the laws of the State of Maryland and any reference herein to the Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

Signed, and sealed this _____ day of _____, 20____, in four counterparts each of which shall without proof of accounting for the other counterparts be deemed an original hereof.

ATTEST:

PRINCIPAL:

(Typed Name and Title)

(Typed Name of Principal)

(Signed Name and Title)

By: _____ (SEAL)
(Signed Name of Principal)

(Typed Name and Telephone Number of Contact)

ATTEST:

SURETY:

(Typed Name and Title)

(Typed Name of Surety)

(Signed Name and Title)

By: _____ (SEAL)
(Signed Name of Surety)

(Typed Name and Telephone Number of Local Agent)

INSURANCE POLICY

Certificate of Insurance to be Provided by Contractor

POLICY TITLE: Insurance Requirements for Independent Contractors

POLICY NUMBER: P-4

ADOPTION DATE: August 29, 1989

EFFECTIVE DATE: September 1, 1989

FILING INSTRUCTIONS:

I. PURPOSE

To protect Washington County against liability, loss or expense due to damaged property, injury to or death of any person or persons and for care and loss of services arising in any way, out of, or in connection with or resulting from the work or service performed on behalf of Washington County.

II. ACTION

The following should be inserted in all Independent Contractor Contracts:

The Contractor shall procure and maintain at his sole expense and until final acceptance of the work by the County, insurance as hereinafter enumerated in policies written by insurance companies admitted in the State of Maryland, have A.M. Best rating of A- or better or its equivalent, and acceptable to the County.

1. **Workers Compensation:** The Contractor agrees to comply with Workers Compensation laws of the State of Maryland and to maintain a Workers Compensation and Employers Liability Policy.

Minimum Limits Required:

Workers Compensation-	Statutory
Employers Liability -	\$100,000 (Each Accident)
	\$500,000 (Disease - Policy Limit)
	\$100,000 (Disease - Each Employee)

2. **Comprehensive General Liability Insurance:** The Contractor shall provide Comprehensive General Liability including Products and Completed Operations.

Minimum Limits Required:

\$1,000,000 combined single limit for Bodily Injury and Property Damage.

Policy P-4 (con't)

3. **Comprehensive General Liability Insurance (con't)**

Such insurance shall protect the County, its agents, elected and appointed officials, commission members and employees, and name Washington County on the policy as additional insured against liability, loss or expense due to damaged property (including loss of use), injury to or death of any person or persons and for care and loss of services arising in any way, out of, or in connection with or resulting from the work of service performed on behalf of Washington County.

The Contractor is ultimately responsible that Subcontractors, if subcontracting is authorized, procure and maintain, at their sole expense and until final acceptance of the work by the County, insurance as hereinafter enumerated in policies written by insurance companies admitted in the State of Maryland, have A.M. Best rating of A- or better or its equivalent, and acceptable to the County.

4. **Business Automobile Liability:** The Contractor shall provide Business Auto Liability including coverage for all leased, owned, non-owned and hired vehicles.

Minimum Limits Required:

\$1,000,000 combined single limit for bodily Injury or Property Damage.

Certificate(s) of Insurance: The Contractor shall provide certificates of insurance requiring a 30 day notice of cancellation to the Insurance Department, Board of County Commissioners of Washington County prior to the start of the applicable project.

Approval of the insurance by the County shall not in any way relieve or decrease the liability of the Contractor. It is expressly understood that the County does not in any way represent that the specified limits of liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of the Contractor.

All responsibility for payment of any sums resulting from any deductible provisions, corridor, or self-insured retention conditions of the policy or policies shall remain with the Contractor.

General Indemnity: The Contractor shall indemnify, defend and save harmless the Board of County Commissioners of Washington County, its appointed or elected officials, commission members, employees and agents for any and all suits, legal actions, administrative proceedings, claims, demands, damages, liabilities, interest, attorneys fees, costs and expenses of whatsoever kind of nature, whether arising before or after final acceptance and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part by reason of any act, error or omission, fault or negligence whether active or passive by the Contractor, or any one acting under its direction, control or on its behalf in connection with or incident to its performance of the Contract.

Revision Date: August 27, 1991

Effective Date: August 27, 1991

Revision Date: March 4, 1997

Effective Date: March 4, 1997

Exhibits

Exhibit 01 - Back Road Proposed Repairs

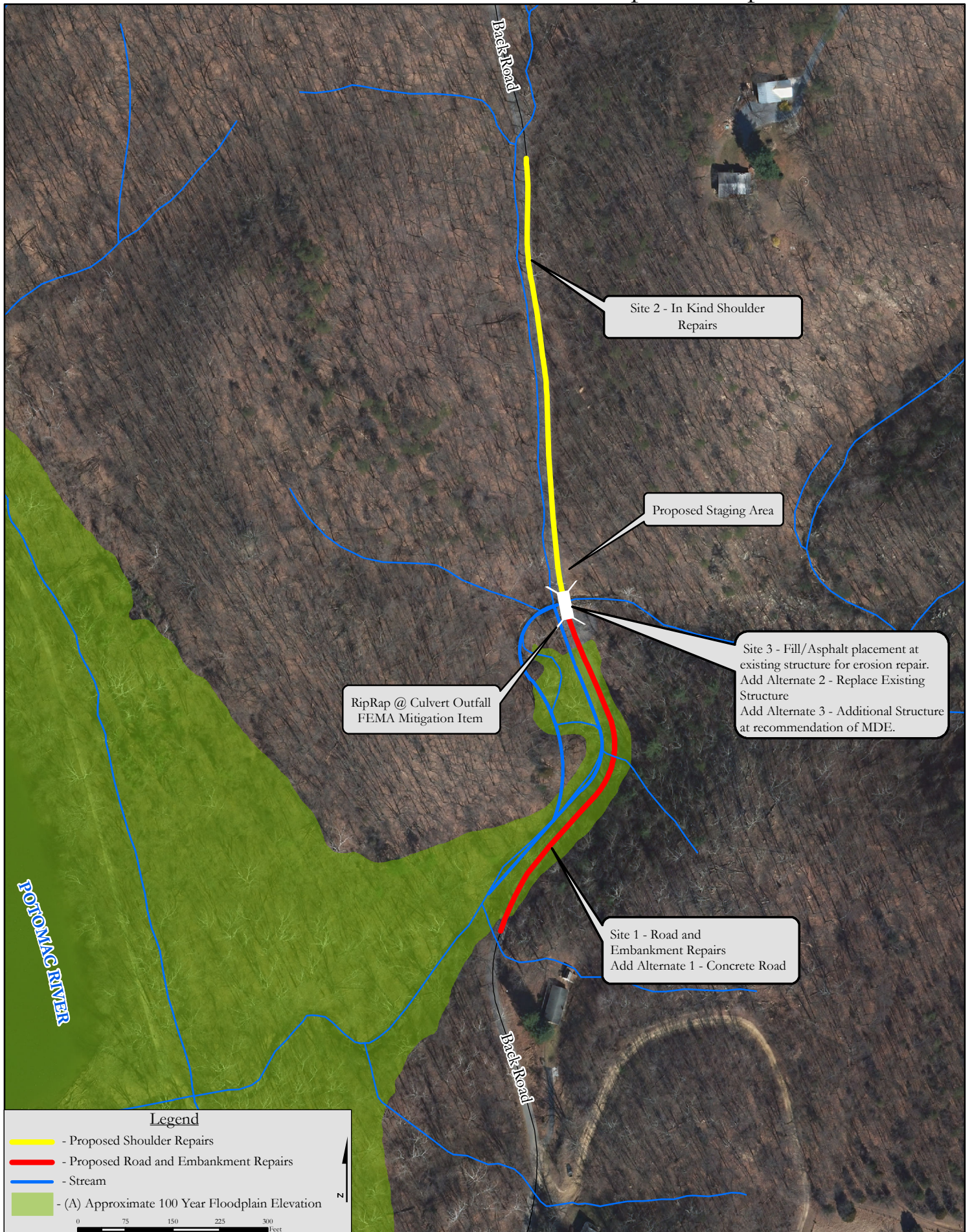


Exhibit 02 - Back Road Photos Post Storm Event



Back Road Looking North



Back Road Looking South – From Structure 11-03



Structure 11-03 - Downstream



Structure 11-03 - Upstream



Back Road – Shoulder Repairs



**WASHINGTON COUNTY DIVISION OF
ENGINEERING AND CONSTRUCTION MANAGEMENT**

2016 BRIDGE INSPECTION REPORT

BRIDGE NO. 11-03

**BACK ROAD
OVER
TRIBUTARY OF POTOMAC RIVER**



David D. Wang

David D. Wang, P.E.
Sabra, Wang and Associates, Inc.

7/11/16

Date

Professional Certification: I hereby certify that this document was prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the state of Maryland, License No. 14714, Expiration Date: December 11, 2017.

The condition report, load ratings and recommendations presented herein are based on a visual inspection of accessible portions of the existing structure. No responsibility is assumed by Sabra, Wang and Associates, Inc. for the presence of any latent structural defects that cannot be detected by such visual inspection.

AB Consultants, Inc.
7020 Tudsbury Road
Baltimore, Maryland 21244

Sabra, Wang & Associates, Inc.
7055 Samuel Morse Drive, Suite 100
Columbia, Maryland 21046



Washington County Division of Engineering and Construction Management

MINOR BRIDGE INSPECTION PROGRAM
INSPECTION WORKSHEET SUPPLEMENT

Structure No. 11-03

Road Name: Back Road over
Tributary of Potomac River

Posting: None

Inspection Date: 04-21-2016

Description: Single-span concrete slab bridge widened on the upstream end. The original structure on the downstream end consists of a concrete slab with embedded steel beams and concrete abutments. The widened portion of the structure also consists of a concrete slab with concrete abutments.

Waterway Opening

Horizontal Clearance: 7'-0"

Vertical Clearance to Water Line: 3'-11"

Average Depth: 7"

Condition Summary

Approach Roadway:

There are no approach traffic barriers.

There are object end markers at all four (4) corners of the bridge. The southwest object marker is leaning to the west.

The roadway at the approaches and over the structure has been repaved since the previous inspection and is in good condition with minor wear throughout.

Superstructure:

The bottom flanges of the embedded steel beams are exposed throughout the original concrete slab (See Photo 6). There is minor corrosion on the two (2) exterior stringers at the west (downstream) end, while the remaining stringers do not exhibit any corrosion.

Substructure:

There is a full-height x 1/8" wide crack along the patch repair located in the corner of the north abutment at the west (downstream) end.

There is an up to 3/16" wide vertical crack at the joint between the original and widened portions of the south abutment.



Washington County Division of Engineering and Construction Management

MINOR BRIDGE INSPECTION PROGRAM INSPECTION WORKSHEET SUPPLEMENT

The southwest wingwall footing exhibits minor scaling throughout.

The southwest wingwall has a full-height diagonal hairline crack at the interface with the south abutment. In addition, there are two 2'-6" long hairline cracks with efflorescence along the top of the southwest wingwall.

There is scour along both abutments and along the southwest, northwest and northeast wingwalls. The concrete footing is exposed along the full length of the original and widened portions of the north abutment. There is up to 2'-0" deep scour along the northeast wingwall and up to 1'-5" deep scour along the north abutment. At the south abutment and wingwalls, only the footing along the original portion of the abutment is exposed up to 1'-0" deep. Undermining was not observed at the abutments or any of the wingwalls.

Channel:

There is a large, fallen tree at the northwest embankment with some timber debris in the stream channel.

There is moderate erosion along the northwest embankment with 3'-0" high vertical cuts (See Photo 7).

The 2012 Report noted that there was moderate timber debris at the southeast embankment; *this timber debris has been removed as the embankment was free of any debris at the time of the current inspection.*

Rating and Posting

Rating Calculations Performed: No

Recommended Weight Posting: None*

* In accordance with Article 7.4.1 of AASHTO Manual for Condition Evaluation of Bridges, 1994

Inspection Category

2 – Minor rehabilitation or major repairs.



Washington County Division of Engineering and Construction Management

MINOR BRIDGE INSPECTION PROGRAM
FIELD INSPECTION WORKSHEET

STRUCTURE NO.	11/03	ROAD NAME: BACK ROAD
		OVER: TRIBUTARY OF POTOMAC RIVER
NUMBER OF APPROACH ROAD LANES CARRIED:	2	MINIMUM CLEAR WIDTH: 20 FT. PAVEMENT CRACKING: YES <input type="radio"/> NO <input checked="" type="radio"/>
ROADWAY WIDTH (Not Including Shoulders)	19 FT.	SAG/SETTLEMENT IN ROADWAY YES <input type="radio"/> NO <input checked="" type="radio"/> SLOPE FAILURE/EROSION <input checked="" type="radio"/> YES <input type="radio"/> NO <input type="radio"/>
FUNCTIONAL REQUIREMENTS (<i>Signing, Alignment, Clearance, Safety, etc.</i>)		
NO APPROACH TRAFFIC BARRIERS		

TYPE OF STRUCTURE: CONCRETE SLAB WITH CONCRETE ABUTMENTS	
SUPERSTRUCTURE	APPROACH ELEMENTS:
OVERALL RATING: N 9 8 <input checked="" type="radio"/> 7 6 5 4 3 2 1 0	OVERALL RATING: E <input checked="" type="radio"/> G <input type="radio"/> F <input type="radio"/> P <input type="radio"/> N/A
WEARING SURFACE (7) See Supplement	PAVEMENT CONDITION Good
DECK-UNDERSIDE (7) See Supplement	HORIZONTAL ALIGNMENT Good
PARAPETS (7) See Supplement	VERTICAL ALIGNMENT Good
RAILING (-)	SPEED LIMIT: 25 MPH
STRINGER (7) See Supplement	SPEED REDUCTION RECOMMENDED: YES <input type="radio"/> NO <input checked="" type="radio"/>
FLOOR-BEAMS (-)	SUBSTRUCTURE:
TRUSSES (-)	OVERALL RATING: N 9 8 7 6 <input checked="" type="radio"/> 5 4 3 2 1 0
ARCHES (-)	NORTH ABUTMENT (5) See Supplement
TRAFFIC BARRIER (-)	SOUTH ABUTMENT (5) See Supplement
CABLES (-)	PIER/COLUMN (-)
BEARING DEVICES (-)	CRACK DEVELOPMENT See Supplement
WELDS (-)	SCOUR See Supplement
TIMBER DECAY N/A	SETTLEMENT None
STEEL CORROSION See Supplement	HIGH-WATER MARK None Observed
CONC. DETERIORATION Minor	COLLISION DAMAGE None
COLLISION DAMAGE None	DETERIORATION Minor
LL DEFLECTIONS None Observed	OVERALL STRUCTURE:
CHANNEL ELEMENTS:	OVERALL RATING: N 9 8 7 6 <input checked="" type="radio"/> 5 4 3 2 1 0
STREAMBED Sediment and Rocks	STRUCTURAL ANALYSIS RECOMMENDED: YES <input type="radio"/> NO <input checked="" type="radio"/>
DRIFT/DEBRIS Minor	SCOUR EVALUATION RECOMMENDED: <input checked="" type="radio"/> YES <input type="radio"/> NO
STREAM FLOW Good Alignment	
EMBANKMENTS Vegetated, Stone Riprap	
COMMENTS Moderate erosion along NW embankment.	

N - N/A 9 TO 0 FOLLOWING TRAINING MANUAL 90 (BIRM)

MAINTENANCE RECOMMENDATIONS:

1. Install approach traffic barrier in accordance with current standards.
2. Seal all cracks in the substructure.
3. Stabilize the northwest embankment.
4. Remove fallen tree from the northwest embankment.

Sketches/Diagrams Necessary to Document Structural Dimensions and Conditions Should be Placed on the Back of this Form.

SPECIAL NOTES COMMENTS: _____

INSPECTED BY: TS/CP
 COMPANY/AGENCY: AB Consultants, Inc.
 DATE OF INSPECTION: 4/21/2016



1. North Approach Looking South



2. South Approach Looking North



3. East Elevation (Upstream)



4. West Elevation (Downstream)



5. Typical Underside of Structure Looking West



6. Exposed Bottom Flanges of Embedded Steel Beams at Original Bridge Slab



**7. Moderate Erosion along Northwest Embankment
(Note: Fallen Tree)**

Exhibit 05

Right of Entry Agreements

RIGHT OF ENTRY AGREEMENT

This Agreement ("Agreement") is entered into as of the 12th day of MARCH 2019, by and between Patricia Hamilton and Lynn Coddington, (the "Owner") and Board of County Commissioners of Washington County, Maryland, and its agents and contractors (collectively "County").

Purpose. County has requested access to enter onto property owned by Owner located at:

2013 Dargan Road, Sharpsburg, MD 21782

(the "Property") for the purpose of: Back Road Repair From Flood Damage

All necessary pre-design and project work to include surveying, staging of equipment, and grading.

1. Right of Entry. Owner, for good and valuable consideration, hereby grants to County, or its agents, temporary access for a period of Five Hundred Forty Seven (547) days, commencing as of the date of this Agreement to enter upon the Property for the sole purpose described above, and for no other purpose, subject to the terms and conditions set forth herein.
2. Conditions. County agrees and understands that this Agreement is expressly conditioned upon the following:
 - a) County shall give notice, in writing, one week in advance to Owner or Owner's representative before entering the Property.
 - b) County will not prohibit or limit Owner's access to the Property at any time.
 - c) County may bring associated equipment onto the Property as may be required for the purpose as stated above. County shall at all times, at its own expense, keep all tools and equipment placed on the Property in good order and repair and in a safe condition.
 - d) County agrees to pay for all labor and materials, if any, used upon the Property and shall save Owner harmless from any lien, or claim of lien, in respect thereto.
 - e) County shall at all times relevant hereto strictly comply with all applicable laws, governmental orders, permit terms and conditions, rules and regulations.
 - f) County shall take all necessary steps to preserve and to avoid damage to the Property.
 - g) Following completion of work conducted by County on the Property, County shall restore the Property to its former condition and surrender the Property in as good order and condition as existed prior to the commencement of work by County.
3. Release of Liability. County shall enter the Property at its own risk and thereby release Owner from any and all claims for damages and liability arising out of County's use of or entry onto the Property under this Agreement.
4. Miscellaneous. This Agreement shall be governed by, construed, and interpreted in accordance with the laws of the State of Maryland. The Agreement shall remain in full force and effect and shall be binding upon the heirs, successors, and assigns of the parties, and any releases and indemnities shall survive

termination of this Agreement. Any modification of this Agreement shall be in writing and signed by both parties. This Agreement represents the entire agreement between the parties and no representations, warranties, or promises have been made by Owner with respect to this Agreement or the Property, except as expressly stated herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

WITNESSED BY:

COUNTY:

Alex Shifler

702 J M -

ALEX SHIFLER
(Printed Name)

Todd J Moser

Title:

Real Property Administrator

WITNESSED BY:

OWNER:

Christina M. Lundberg By:

Patricia Ellen Hamilton

CHRISTINA M. LUNDBERG
(Printed Name)

PATRICIA ELLEN HAMILTON
(Printed Name)

Its:

WITNESSED BY:

OWNER:

Christina M. Lundberg By:

Lynn Coddington

CHRISTINA M. LUNDBERG
(Printed Name)

LYNN CODDINGTON
(Printed Name)

Its:

RIGHT OF ENTRY AGREEMENT

This Agreement ("Agreement") is entered as of the 20 day of March 2019, by and between, Marvin and Martha Neviasser (the "Owner") and Board of County Commissioners of Washington County, Maryland, and its agents and contractors (collectively "County").

Purpose. County has requested access to enter onto property owned by Owner located at:

18103 Maze Lane, Knoxville, MD 21758

(the "Property") for: Back Road Repair from Flood Damage

All necessary pre-design and project work to include surveying, staging of equipment, and grading.

1. Right of Entry. Owner, for good and valuable consideration, hereby grants to County, or its agents, temporary access for a period of Five Hundred Forty-Seven (547) days, commencing as of the date of this Agreement to enter upon the Property for the sole purpose described above, and for no other purpose, subject to the terms and conditions set forth herein.
2. Conditions. County agrees and understands that this Agreement is expressly conditioned upon the following:
 - a) County shall give notice, in writing, one week in advance to Owner or Owner's representative before entering the Property.
 - b) County will not prohibit or limit Owner's access to the Property at any time.
 - c) County may bring associated equipment onto the Property as may be required for the purpose as stated above. County shall at all times, at its own expense, keep all tools and equipment placed on the Property in good order and repair and in a safe condition.
 - d) County agrees to pay for all labor and materials, if any, used upon the Property and shall save Owner harmless from any lien, or claim of lien, in respect thereto.
 - e) County shall at all times relevant hereto strictly comply with all applicable laws, governmental orders, permit terms and conditions, rules and regulations.
 - f) County shall take all necessary steps to preserve and to avoid damage to the Property.
 - g) Following completion of work conducted by County on the Property, County shall restore the Property to its former condition and surrender the Property in as good order and condition as existed prior to the commencement of work by County.
3. Release of Liability. County shall enter the Property at its own risk and thereby release Owner from any and all claims for damages and liability arising out of County's use of or entry onto the Property under this Agreement.
4. Miscellaneous. This Agreement shall be governed by, construed, and interpreted in accordance with the laws of the State of Maryland. The Agreement shall remain in full force and effect and shall be binding upon the heirs, successors, and assigns of the parties, and any releases and indemnities shall survive

termination of this Agreement. Any modification of this Agreement shall be in writing and signed by both parties. This Agreement represents the entire agreement between the parties and no representations, warranties, or promises have been made by Owner with respect to this Agreement or the Property, except as expressly stated herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

WITNESSED BY:

COUNTY:





MARK MISKLER

Todd Moser

(Printed Name)

Title:

Real Property Administrator

WITNESSED BY:

OWNER:



By:

Marvin I Neviasev

Todd Moser



(Printed Name)

(Printed Name)

Its:

WITNESSED BY:

OWNER:



By:

Martha L Neviasev

Todd Moser



(Printed Name)

(Printed Name)

Its:



United States Department of the Interior

NATIONAL PARK SERVICE
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740

IN REPLY REFER TO:

10.B (Management)

March 25, 2019

Mr. Mark Mishler
Washington County Division of Engineering
80 West Baltimore Street
Hagerstown, Maryland 21740

Dear Mr. Mishler,

The National Park Service (NPS) recognizes the County's efforts to restore a portion of Back Road and small culvert that was destroyed during the severe flooding event of May, 2018.

Washington County has stated their intent to move forward with a Design/Build Contract to repair the damaged roadway section. It is understood that this project will put the design, permitting, and construction responsibility on a Consultant/Contractor. The NPS supports Washington County's efforts to restore this section of roadway while abiding by park requirements.

The Design/Build Contract will require the Consultant to rebuild the road and culvert where the previous road and culvert were located. The proposed work will occur within the County right-of-way and the County will direct the Consultant to keep the new construction within the prior infrastructure's footprint. Maryland Department of Environment (MDE) will serve as the main regulatory oversight role for the work.

The NPS will require Washington County's Consultant/Contractor to obtain a Special Use Permit (SUP) as part of this project (Attachment 1). This permit is the NPS instrument best suited for supporting this project. The application for the SUP may be submitted by the Contractor/Consultant prior to design being finalized. If you have further questions, please contact me by any of the following; Email leigh_zahm@nps.gov, office phone (301) 745-5815 or cell phone (301) 491-6267.

Sincerely,

Leigh Zahm
Park Permits Coordinator
C&O Canal NHP



APPLICATION FOR SPECIAL USE PERMIT

C&O Canal National Historical Park

**1850 Dual Highway, Suite 100
Hagerstown, Maryland 21740
(301) 745-5815, Leigh Zahm Park Permits Coordinator**

Please supply the information requested below. **Attach additional sheets, if necessary, to provide required information.** A nonrefundable processing fee of \$200.00 must accompany this application unless the requested use is an exercise of a First Amendment right. You must allow sufficient time for the park to process your request; check with the park for guidelines. You will be notified of the status of the application and the necessary steps to secure your final permit. Your permit may require the payment of cost recovery charges and proof of liability insurance naming the United States of America an additional insured.

* Enter either a Social Security Number OR a tax ID number; we do not require both.

Applicant Name				Company/Organization Name			
Social Security Number*				Tax Identification Number*			
Street Address				Street Address			
City	State	Zip Code	Country	City	State	Zip Code	Country
Telephone Number				Contact Name			
Cell Phone Number				Telephone Number			
Fax Number				Fax Number			
Email Address				Email Address			
Description of Proposed Activity (attach diagram and/or additional pages, if necessary)							

Requested Location			
Set-Up Begins	Activity Begins	Activity Ends	Removal Completed
Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM
Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM
Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Date Time <input type="checkbox"/> AM <input type="checkbox"/> PM
Maximum Number of Participants (Best Estimate)	Maximum Number of Vehicles (attach parking plan)		
	Cars	Vans/Light Trucks	Utility Vans/Trucks
			Buses/Oversized Vehicles
Support equipment (list all equipment; attach additional pages if necessary)			
List support personnel including addresses and telephones; attach additional pages if necessary			
Name	Address	Cell Phone Number	
Individual in charge of activity onsite who is authorized to make decisions related to the permitted activity:			Cell Phone Number
Is this an exercise of First Amendment Rights?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you visited the requested area?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you obtained a permit from the National Park Service in the past? (If yes, provide a list of permit dates and locations on a separate page.)			<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you plan to advertise or issue a press release before the event?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Will you distribute printed material?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there any reason to believe there will be attempts to disrupt, protest or prevent your event? (If yes, please explain on a separate page.)			<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you intend to solicit donations or offer items for sale? (These activities may require an additional permit.)			<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>You are encouraged to attach additional pages with information useful in evaluating your permit request including: staging, sound systems, parking plan, security plans, sanitary facilities, crowd control, emergency medical plan, use of any building, site clean-up, etc.</p> <p>The applicant by his or her signature certifies that all the information given is complete and correct, and that no false or misleading information or statements have been given.</p>			
Printed Name		Title	
Signature		Date	

NOTICES

IMPORTANT NOTICE TO APPLICANT: This is an application *only*, and does not serve as permission to conduct any special activity in the park. The information provided will be used to determine whether a permit will be issued. Send the completed application along with the application fee in the form of an on-line credit card payment to <https://pay.gov>, cashier's check, money order or personal check made payable to the **National Park Service** at the park address found on the first page of this application.

If your request is approved, a permit containing applicable terms and conditions will be sent you. The permit must be signed by the responsible person and returned to the park for final approval by the Park Superintendent before the permitted activity may begin.

Customers Making Payment by Personal Check

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

Privacy Act Statement

General: This information is provided pursuant to Public Law 93-579 (Privacy Act of 1974), December 21, 1984, for individuals completing this application.

Authority: The authority to collect information on the attached form is derived from Title 31, United States Code, Section 7701.

Purposes and Uses: The information being collected to allow the park manager to make a value judgment on whether or not to allow the requested use. Information from the application may be transferred to appropriate Federal, State, and local agencies, when relevant to civil, criminal or regulatory investigations or prosecutions.

Effects of Nondisclosure: It is in your best interest to answer all of the questions. The U.S. Criminal Code, Title 18 U.S.C. 1001, provides that knowingly falsifying or concealing a material fact is a felony that may result in fines of up to \$10,000 or 5 years in prison, or both. Deliberately and materially making false or fraudulent statements on this form will be grounds for not granting you a Special Use Permit

Information Regarding Disclosure of Your Social Security Number Under Public Law 93-579 Section 7(b): Your Social Security Number (SSN) is needed to identify records unique to you. Applicants are required to provide their social security or taxpayer identification number for activities subject to collection of fees and charges by the National Park Service (31 U.S.C. 7701). Although disclosure of your SSN is not mandatory, failure to disclose your SSN may prevent or delay the processing of your application. The authority for soliciting and verifying your SSN is Executive Order 9397. The information gathered through the use of the SSN will be used only as necessary for processing this application and will be carried out in accordance with established regulations and published notices of system of records.

Paperwork Reduction Act Statement

We are collecting this information subject to the Paperwork Reduction Act (44 U.S.C. 3501) to provide the park managers the information needed to decide whether or not to allow the requested use. All applicable parts of the form must be completed in order for your request to be considered. You are not required to respond to this or any other Federal agency-sponsored information collection unless it displays a currently valid OMB control number.

Estimated Burden Statement

Public reporting burden for this form is estimated to average 30 minutes per response including the time it takes to read, gather and maintain data, review instructions and complete the form. Direct comments regarding this burden estimate, or any aspects of this form, to the Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, Mail Stop 242, Reston, VA 20192. Please do not send your form to this address.

INTERNAL AGENCY USE ONLY

Project Number/BILL	Date Processed
Permit Number	Prepared By
Organization Name	

Back Road

Project Brief Description

During the incident period of May 15, 2018 – May 19, 2018 Washington County experienced severe storms and flooding. Bank Road experienced 525 feet of roadway loss, another 725 feet of partial road/shoulder damage and 76 feet of erosion behind the wing walls to an existing drainage structure (a small 10 ft. bridge). A detailed project description has been uploaded in the attached documents which includes some historical unit prices. The applicant is participating the PAAP DAC.

Damage #127142; Back Road

- **General Facility Information:**
 - **Facility Type:** Roads (No Culverts)
 - **Facility:** Back Road
 - **Facility Description:** 2 lane paved road
 - **Approx. Year Built:** 1930
 - **Location Description:** Back Road
 - **Road Type:** Asphalt
 - **Start GPS Latitude/Longitude:** 39.36639, -77.73906
 - **End GPS Latitude/Longitude:** 39.36995, -77.73897
 - **Width (ft):** 18
 - **Number of Lanes:** 2
- **General Damage Information:**
 - **Date Damaged:** 5/15/2018 to 5/19/2018
 - **Cause of Damage:** Fast moving water

Road Damage:

- Site 1 start GPS 39.3664, -77.7391 end GPS 39.3677 -77.7383:
 - Surface, 175 CY of asphalt Surface, 525 FT long x 18 FT wide x 0.5 FT high, washed away by fast moving water, 0% work completed.
 - Sub Base, 233.3333 CY of gravel base material, 525 FT long x 24 FT wide x 0.5 FT high, washed away by fast moving water, 0% work completed.
 - Shoulder, 58.3333 CY of gravel shoulder material, 1,050 FT long x 6 FT wide x 0.25 FT high, washed away by fast moving water, 0% work completed.
 - Embankment, 1,458.3333 CY of earth fill, 525 FT long x 30 FT wide x 2.5 FT high, washed away by fast moving , 0% work completed.
 - gabion, 175 CY of gabion slope protection, 525 FT long x 3 FT wide x 3 FT high, washed away by fast moving water , 0% work completed.
- Site 2 start GPS 39.3677, -77.7382 end GPS 39.3699, -77.7389:
 - Surface, 53.7037 CY of asphalt Surface, 725 FT long x 4 FT wide x 0.5 FT high, washed away by fast moving water, 0% work completed.
 - Sub Base, 53.7037 CY of gravel base material, 725 FT long x 4 FT wide x 0.5 FT high, washed away by fast moving water, 0% work completed.
 - Embankment, 429.6296 CY of earth fill , 725 FT long x 4 FT wide x 4 FT high, washed away by fast moving water, 0% work completed.
- Site 3 GPS 39.3677, -77.7382:
 - Surface, 2.4444 CY of asphalt Surface, 20 FT long x 10 FT wide x 0.33 FT high, washed away by fast moving water, 0% work completed.
 - Embankment, 45.037 CY of rock fill around wingwalls, 76 FT long x 8 FT wide x 2 FT high, washed away by fast moving water, 0% work completed.

127142 Back Road

Work To Be Completed

The applicant will utilize contract for Back Road repair to Washington County back to its pre-disaster design, function and capacity within the existing footprint.

- A. Site 1 - Replace 175 CY of Surface Asphalt Pavement.
- B. Site 1 - Replace 233.33 CY of Gravel Sub Base Material.
- C. Site 1 - Replace 58.33 CY of Gravel Shoulder Material.
- D. Site 1 - Replace 1,458.33 CY of Embankment Earth Fill.
- E. Site 1 - Replace 175 CY of Gabion Slope Protection.
- F. Site 2 - Replace 53.7 CY of Surface Asphalt Pavement.
- G. Site 2 - Replace 53.7 CY of Gravel Sub Base Material.
- H. Site 2 - Replace 429.63 CY of Embankment Earth Fill.
- I. Site 3 - Replace 2.44 CY of Surface Asphalt Pavement.
- J. Site 3 - Replace 45.04 CY of Embankment Rock Fill.

Project Notes:

1. All site work to be completed was generated using RS means line items through CEF. See attachment labeled "CEF 48866 - DR4374 MD - Back Road Washington Co Engineering - CEF".
2. Direct Administrative Costs: The applicant is claiming DAC Costs for gathering documentation and meetings with FEMA to discuss their projects through PAAP, as the Applicant has elected to participate in FEMA's PAAP Direct Administrative Cost (DAC) Pilot Program. DAC for this project has been addressed in a separate project in accordance with pilot procedures.
3. The applicant procurement policy is attached "DR4374MD - Washington County Maryland Procurement Policy.pdf".

406 HMP Scope

The County is requesting mitigation to add an additional box culvert next to the current small bridge in order to reduce the frequency of the roadway flooding. The addition of another drainage structure was a recommendation by a Maryland Department of the Environment regulatory and compliance engineer. The existing structure is not situated adequately relative to the orientation of the stream and is frequently bypassed and an alternate stream channel has been created as a result of the flood event. A hydrology and hydraulic study will need to be performed to determine the waterway opening size of the proposed additional structure; however, it is anticipated to be of similar size to the existing adjacent bridge which is approximately 8 ft. x 4 ft.

A secondary mitigation element includes constructing a concrete road to act as a low water crossing to accommodate the flow of water overtopping the roadway without damaging the pavement. The limits would coincide with damaged sites 1 and 3 and extend from the existing bridge south for approximately 525 ft., which is also the area frequently overtopped.

This section of Back Road has suffered repetitive damage and photo documentation shows of at least two instances in the past 8 years where the road was overtopped and experienced damage. The additional culvert mitigation measure would reduce the frequency of this occurrence and the installation of a more durable concrete roadway surface would be more capable of withstanding the erosive water forces without suffering damage.