

MODIFICATIONS TO FP-03

The following are supplements and modifications to "Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-03."

101.03 Abbreviations: Add the following terms to this Subsection:

Administrator -The Secretary of Public Works, Commonwealth of the Northern Mariana Islands

City, Township, Town or District - A subdivision of the Commonwealth of the Northern Mariana Islands used to designate or identify the location of the project.

Commonwealth – Commonwealth of the Northern Mariana Islands

Contracting Officer – Secretary of the Department of Public Works

CNMI – Commonwealth of the Northern Mariana Islands

Director - The Director of Public Works, Commonwealth of the Northern Mariana Islands, and his authorized representatives.

Government - The Commonwealth of the Northern Mariana Islands

Owner - The term Owner and/or Contracting Officer mean the Commonwealth of the Northern Mariana Islands, and/or the Contracting Officer and their authorized representatives.

State - Commonwealth of the Northern Mariana Islands

Secretary – The Secretary of the Department of Public Works

END OF SECTION 101

SECTION 102 - BID, AWARD, AND EXECUTION OF CONTRACT

102.01 **Acquisition Regulations** - This subsection is supplemented to include CNMI Procurement Regulations, dated September 12, 1980.

102.02 **Preparation of Bids** - Add the following to this subsection:

Bids shall be submitted on the forms furnished, or copies thereof, and must be signed in ink. Erasures or other changes in a bid must be explained or noted over the signature of the bidder. Bids containing any conditions, omissions, unexplained erasures or alterations or items not called for in the bid or irregularities of any kind may be rejected as incomplete. Telegraphic bids will not be considered.

The "Bid Form" may require for submission of a price or prices for one or more items. It may be lump sum bids, or scheduled bid items, resulting in a bid or a unit of construction or a combination of it. Failure to bid on items that are required will cause disqualification of bid. In the event that items are not required the bidder must insert the word "**No Bid**" in the space provided.

Submitted bids may be modified only if modification is received before the scheduled bid opening.

Each bid must give the full business address of the bidder and be signed by him with his usual signature. Bids by partnership must furnish the full names of all partners and must be signed in the partnership name by one of the members of the partnership or by an authorized representative followed by the signature and designation of the person signing. Bids by corporations must be signed with the legal name of the corporation followed by the name of the State of incorporation and by the signature and designation of the president, secretary or other person signing, which shall also be typed or printed below the signature. A bid by a person who affixes to this signature the word president, agent or other designation without disclosing his principal may be held to the bid of the individual signing. When requested by the Owner, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.

Bids with bid guarantee shall be enclosed in a sealed envelope and shall be addressed to the Office of the Director, Division of Procurement & Supply, Lower Base, Saipan and marked "**Proposal for the ROUTE 36 (WINDWARD/CHALAN KALABERA) ROAD IMPROVEMENTS, PHASE-1a; Project No. TQ-THS-0036(301)**".

102.03 **Bid Guarantee** - Delete this subsection and substitute the following:

Bids shall be accompanied by a bid guarantee of not less than fifteen percent (15%) of the total bid price for which an award can be made. Bid guarantee may be bid bond (form enclosed), certified check or cashier's check. Bid bond shall be signed by the bidder and two major officers of the Surety. If the Surety is a foreign or alien surety, the bid bond shall be accompanied with copies of current Certificate of Authority to do business in the Commonwealth of the Northern Mariana Islands issued by the Revenue and Taxation Administration, Power of Attorney issued by the Surety to the Resident General Agent and Power of Attorney issued by two major officers of the Surety to whoever is signing on their behalf. Certified check or cashier's check must be issued by a banking institution licensed to do business in Commonwealth of the Northern Mariana Islands and shall be made payable to the Treasurer of the Commonwealth of the Northern Mariana Islands. Such bid bond or check shall be submitted with the understanding that it shall guarantee that the bidder will not withdraw his bid for sixty (60) calendar days after the scheduled closing time for the receipt of bids; that if his bid is accepted, he will enter a formal contract with the Owner according to the form of agreement included as a part of the contract documents, and that the required performance and payment bond will be given; and that in case of the withdrawal of said bid within said period, or the failure to enter said contract and give said bond within twenty-one (21) calendar days after he has received notice of the acceptance of his bid, the bidder shall be liable to the Owner for the full amount of the bid guarantee as representing the damage to the Owner due to the

default of the bidder in any particular hereof. The bid guarantee will be returned to all bidders except the three lowest bidders within three days after the bid opening. The bid guarantee of the second and/or third low bidder will be returned thirty (30) calendar days after the bid opening date upon request, provided that he has not been notified by the Owner of the acceptance of his bid prior to the date of request. The bid guarantee of the lowest qualified bidder shall be returned within forty-eight (48) hours after the Owner and the qualified bidder have executed the contract.

102.05 **Public Opening of Bids** - Revise this subsection to read as follows:

Bids will be publicly opened at the time and place specified in the "Invitation to Bid." The bid content will be made public for the information of bidders and other interested parties who may be present, either in person or by representative.

102.06 **Performance and Payment Bonds** - Revise the first paragraph of this subsection to read as follows:

Payment Bond equivalent to the contract amount must be furnished by the Contractor at the time of award. If the Contractor fails to satisfactorily execute the required forms of contract, performance bond, and payment bond, within the time established in the Intent of Award, the Commonwealth may proceed to have the required work performed by contract or otherwise, and the Contractor shall be liable for any excess cost to the Commonwealth and the Contractor's bid guarantee shall be available toward off-setting such excess cost.

Add the following to this subsection:

The copies of the Form of Bid Bond, Form of Performance Bond and Form of Payment Bond enclosed are incorporated in these General Conditions by references and are made a part hereof to the same extent as though fully set forth herein.

The successful bidder must deliver to the Owner an executed Performance and Payment Bond (form attached) in an amount at least equal to 100% of the accepted bid as security for the faithful performance of the contract and as security for the payment of all persons performing labor and furnishing materials concerning this contract.

The sureties of all bonds shall be such surety company or companies as are approved by the Owner, and as authorized to transact business in the State where the proposed project is located. The Owner must approve the Bonds prior to execution of the formal contract. On contracts for materials and equipment where no labor is involved, Performance and Payment Bonds will not be required unless otherwise stated.

Add the following to this Section:

102.07 **Award of Contract** - The Government reserves the right to waive any informality in the bids received when such waiver is in the interest of the Government.

Award of contract will be made to the lowest qualified bidder whose bid, conforming to the "**Invitation to Bid**" is most responsive and advantageous to the Government, price and other factors considered.

1. **ENTIRE AGREEMENT:** With respect to the subject matter of the Contract, the Contract, as expressed in the Contract Documents, represents the entire agreement between the Commonwealth and the Contractor, and supersedes all prior agreements and understandings. No revision to the express terms of the contract shall be implied, except as required by law.

2. **CONTRACT NOT ASSIGNABLE:** The Contract and all of its covenants shall inure to the benefit of and be binding respectively upon the Commonwealth and the Contractor and its partners, successors, assigns and legal representatives. The Contractor may not assign, transfer, encumber,

or sublet its interest or obligations under the Contract without written consent of the Commonwealth. No mechanic, subcontractor, supplier, or other person shall be permitted to contract for or in any other manner have or acquire any lien upon the services covered by the Contract, or the construction to which the services pertain, or the land upon which the construction is situated.

3. **INDEPENDENT CONTRACTOR:** For purposes of the application of Article 6, "Ethics in Public Contracting" of the CNMI Procurement Regulations, the Contractor and its employees, agents, subcontractors, and representatives shall be considered employees of the Commonwealth government, as provided by §1-201(8) of the CNMI Procurement Regulations.

Except as stated in the CNMI Procurement Regulations or authorized in writing by the Contracting Officer and only under the terms so stated or authorized, neither the Contractor nor its employees or subcontractors shall act for, represent, or bind the Commonwealth in any capacity or manner whatsoever, or be deemed or considered an employee, agent, or representative of the Commonwealth, or be deemed to have any relationship with the Commonwealth other than that of independent contractor.

4. **NO WAIVER BY COMMONWEALTH:** The failure of the Commonwealth in any one or more instances to insist upon strict performance of any of the items of the Contract, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment, to any extent, of the right to assert or rely upon any such terms or options on any future occasion.

5. **INTERPRETATION AND VALIDITY:** This contract shall be interpreted under the laws of the Commonwealth of the Northern Mariana Islands. Where no local law is available to resolve a particular issue, reference shall be had to U.S. federal procurement law and cases similar to the matter in dispute, including the Federal Acquisition Regulation and decisions interpreting it, as well as scholarly treatises on U.S. federal procurement law.

All provisions of this Contract shall, to the extent practical, be interpreted to be consistent with the CNMI Procurement Regulations. In the event of irreconcilable conflict between any provision of the contract and the CNMI Procurement Regulations, the CNMI Procurement Regulations shall govern the Contract. In the event of a conflict between any provision of the Contract and Agreement document and these General Conditions, the Contract and Agreement document shall govern the Contract. If the contract documents include a "Special Conditions" document, that document shall be interpreted to supplement these General Conditions and shall prevail in the event of a conflict.

In the event the contract or the procurement action resulting in the contract is found to be in violation of the CNMI Procurement Regulations, then the Contract will not be valid under the laws of the Commonwealth of the Northern Mariana Islands, and may be found to be legally voidable. The Commonwealth will seek to have any liability asserted against it by a contractor directly results from improper acts of a government employee to be determined judicially to be the individual liability of the employee who committed the wrongful acts. (Reference CNMI Procurement Regulations §§1-107, 1-108.)

- 102.08 **Pre-Bid Conference** - A Pre-Bid Conference among the prospective bidders will be held at the time and place specified in the "Invitation for Bid." Questions concerning the plans and specifications of Special Provisions shall be submitted before the conference. All interpretations made at the conference will be issued as addendum to the Special Provisions and forwarded to all prospective bidders. Written acknowledgment of receipt will be required on all bids submitted. No other interpretations of any data will be made before award of contract.

END OF SECTION 102

SECTION 103 - SCOPE OF WORK

103.02 **Disputes** – Add the following to this Subsection:

DISPUTES AND REMEDIES:

- a) Notwithstanding any other provision of the Contract, before the contractor may bring any action law equity relating to any dispute relating to the Contract, including but not limited to claims for wrongful termination or breach, the Contractor must first submit the dispute to administrative resolution and appeal as provided by this clause.
- b) Any dispute between the Commonwealth and the Contractor relating to the performance, interpretation of, or compensation due under the Contract, must be filed in writing with the Director of Procurement and Supply and with the Secretary of Public Works within ten calendar days after the Contractor obtains knowledge of the facts surrounding the dispute.
- c) The Secretary of Public Works will attempt to resolve the dispute by mutual agreement. If the dispute cannot be settled, either the Contractor or the Contracting Officer may request a decision on the dispute from the Director of Procurement & Supply. The Director shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a decision that shall include:
 - i) Description of the dispute;
 - ii) Reference to pertinent contract terms;
 - iii) Statement of the factual areas of disagreement or agreement; and
 - iv) Statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.
- d) The Director of Procurement and Supply may require a hearing or that information be submitted on the record, in his discretion.
- e) Whenever the Contractor has a dispute pending before the Secretary of Public Works or the Director of Procurement and Supply, the Contractor must continue to perform according to the terms of the contract, and failure to so continue shall be deemed to be a material breach of the contract unless the Contractor obtains a waiver of this provision by the Secretary of Public Works.
- f) Paragraphs (b) through (e) are derived from §5-201 of the CNMI Procurement Regulations, and shall be interpreted so as not to be in conflict with the CNMI Procurement Regulations. If an officer of the Commonwealth other than the Secretary of Public Works executes the Contract and Agreement as “expenditure authority”, then that officer shall be substituted for “Secretary of Public Works” in paragraphs (b) through (e).
- g) Disputes arising out of the Labor Standards Provisions of this Contract (if any) shall be subject to this clause, except, to the extent such disputes involve classifications or wage rates contained in the CNMI Title and Pay Plan, which questions shall be referred to the Contracting Officer.
- (h) Nothing in this clause shall serve to limit any remedies at law or equity available to the Commonwealth.
- (i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer

103.03 **Value Engineering** - This subsection is supplemented as follows:

a) General. The Contractor is encouraged to develop, prepare, and submit value Contracting Officer change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, according to paragraph (f) below.

b) Definitions. "Collateral costs," as used in this clause, means agency cost of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those reductions resulting from a VECP in the agency's general projected collateral costs, exclusive of acquisition savings, whether the acquisition cost changes.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, also those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of VECP, minus allowable Contractor's development and implementation costs, including subcontractor's development and implementation costs (see paragraph (h) below).

"Value Engineering change proposal (VECP)," means a proposal that --

- 1) Requires a change to this, the instant contract, to implement; and
- 2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics provided it does not involve a change -
 - (i) In deliverable end item quantities only; or
 - (ii) To the contract type only.

c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by the contractual required management configuration or similar procedures, the instructions in those procedures related to the format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

- 3) A separate, detailed cost estimate for
 - (i) the affected portions of the existing contract requirement and
 - (ii) the VECP. The cost reduction associated with the VECP shall consider the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

5) A prediction of any effects the proposed change would have on collateral costs to the agency.

6) A statement of the time by which a contract modification accepting the VECP must be issued to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

d) Submission. The Contractor shall submit VECP's to the Contracting Officer.

e) Government Action.

1) The Contracting Officer shall notify the Contractor of the status of the VECP within 45 calendar days after the Contracting Officer receives it. If additional time is required, the Contracting Officer shall notify the Contractor within the 45 calendar days and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

2) If the VECP is not accepted, the Contracting Officer shall notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, although an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform according to the existing contract. The Contracting Officer's decision to accept or reject all or part of any VECP shall be final and not subject to the Disputes clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

f) Sharing.

1) Rates: Contractor's share of savings is determined by subtracting the Government costs from instant contract savings and multiplying the result by

- (i) 55 percent for fixed-price contracts or
- (ii) 25 percent for cost-reimbursement contracts.

2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to -

- (i) Accept the VECP,
 - (ii) Reduce the contract price or estimated cost by the amount of instant contract savings;
- and
- (iii) Provide the Contractor's share of savings by adding the amount calculated under paragraph (1) above to the contract price or fee.

g) Collateral savings. If a VECP is accepted, the instant contract amount shall be increased by 20 percent of any projected collateral savings to be determined in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of

collateral savings shall not exceed (1) the contract's firm-fixed price or estimated cost, at the time the VECP is accepted, or (2) \$100,000, whichever is greater. The Contracting Officer shall determine the amount of collateral savings, and the amount shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.

h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments, if these payments shall not reduce the Government's share of the savings resulting from the VECP.

(l) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering-Construction clause of contract shall not be disclosed outside the Government, duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.). The Contractor will be paid on the Final Payment of the project.

END OF SECTION 103

SECTION 104 - CONTROL OF WORK

104.01 **Authority of the Contracting Officer (CO)** - The following are added to this subsection:

104.01A **Termination for Default:**

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will ensure its completion within the contract time, or fails to complete said work within the contract time, the Commonwealth may, by written notice to the Contractor from the Contracting Officer, terminate the Contractor's right to proceed with the work or such part of the work as to which there has been delay, after providing ten day's written notice and an opportunity to the Contractor to show cause why such action should not be taken. In the event of a termination for default under this clause, the Commonwealth may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plans as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, the Contractor and his sureties shall be liable for any damage to the Commonwealth resulting from the Contractor's refusal or failure to complete the work within the contract time.
- (b) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:
 - (i) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of nature, acts of the public enemy, acts of the Commonwealth in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Commonwealth, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers of any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and
 - (ii) The Contractor, within ten (10) days from the beginning of any such delay (unless the Contracting Officer grants a further period of time before the date of final payment under the contract), notify the Contracting Officer in writing of the cause of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension and his findings shall be final, subject only to appeal as provided in the "Disputes and Remedies" clause.
- (c) If the Commonwealth terminates the Contractor's right to proceed under paragraph (a), the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work, together with any increased costs occasioned the Commonwealth in completing the work.
- (d) If the Contractor is in default under paragraph (a), but the Commonwealth does not terminate the Contractor's right to proceed, the resulting damage will consist of applicable liquidated damages until the work is completed or accepted.
- (e) The Contractor shall be in default of the Contract, and the Contracting Officer may immediately and without other notice, terminate the Contractor's right to proceed with the Contract through written notice to the Contractor of default termination, upon a determination by the Contracting Officer that, related to this particular contract, any of the following has occurred:

- (i) The Contractor has committed any breach of ethical standards as defined in the Contract Documents, the CNMI Procurement Regulations, or other applicable law.
 - (II) The Contractor has participated in any violation of the rules or regulations in the CNMI Procurement Regulations to the disadvantage of the Commonwealth.
 - (III) The Contractor has colluded with other potential awardees of the Contract or with government employees to the disadvantage of the Commonwealth.
 - (iv) The Contractor knowingly requests and/or receives payment to which it is not entitled under the specific terms of the Contract.
 - (V) The Contractor accepts payment with knowledge that government employees or officials authorizing the payment have not complied with the terms of the Contract or applicable law.
- (f) If, after notice of termination of the contractor's right to proceed under any of the provisions of this clause, it is subsequently determined by the Contracting Officer (or, upon review of the Contracting Officer's decision, by an authorized administrative or judicial body) that the Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the "Termination for the Convenience of the Commonwealth" clause. This paragraph shall provide the exclusive remedy for a wrongful termination for default.
- (g) Any disagreement of the Contractor to any action taken by the Commonwealth under this clause shall be a dispute within the meaning of the "Disputes and Remedies" clause.
- (h) The rights and remedies of the Commonwealth provided in this clause are in addition to any other rights and remedies provided by law or under the Contract.

104.01B Termination for the Convenience of the Commonwealth:

- (a) Termination. The Contracting Officer may, when the interests of the Commonwealth so require, terminate this contract in whole or in part, for the convenience of the Commonwealth. The Contracting Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when the termination becomes effective.
- (b) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and, on the date set in the notice of termination, the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Contracting Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the Commonwealth. The Contractor must still complete the work not terminated by the notice of termination and incur obligations as are necessary to do so.
- (c) Right to Supplies. The Contracting Officer may require the Contractor to transfer title and deliver to the Commonwealth in the manner and to the extent directed by the Director of Procurement and Supply:
- (i) Any completed supplies; and
 - (ii) Such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the

Contractor has specifically produced or specially acquired for the performance of the terminated part of the Contract.

- (d) The Contractor shall, upon direction of the Contracting Officer, protect and preserve property in the possession of the Contractor in which the Commonwealth has an interest. If the Contracting Officer does not exercise the right specified in paragraph (c) , the Contractor shall use his best efforts to sell such supplies and manufacturing materials in accordance with the standards of the Uniform Commercial Code of the Northern Mariana Islands, 5 CMC § 2706. Utilization of this procedure in no way implies that the Commonwealth has breached the contract by exercise of the "Termination for Convenience of the Commonwealth" clause.
- (e) Compensation. The Contractor shall submit to the Contracting Officer a termination claim specifying the amount due because of the Termination for Convenience together with cost and pricing data to the extent required. If the Contractor fails to file a termination claim within one (1) year from the effective date of the termination, the Contracting Officer may pay the Contractor, if at all, an amount set in accordance with paragraph (g).
- (f) The Contracting Officer and the Contractor may agree to a settlement provided the Contractor has filed a termination claim and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the Commonwealth, the proceeds of any sales and supplies and manufacturing materials under paragraph (d), and the contract price of the work not terminated.
- (g) Absent complete agreement under paragraph (f), the Contracting Officer shall pay the Contractor the following amounts, provided payments agreed to under paragraph (f) shall not duplicate payments under this paragraph:
 - (i) contract prices for supplies or services accepted under the contract.
 - (ii) costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that the Contractor would have sustained a loss if completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss.
 - (iii) costs of settling and paying claims arising out of termination of subcontracts or orders pursuant to paragraph (b). These costs must not include cost paid in accordance with subparagraph (g)(ii).
 - (iv) the reasonable settlement costs of the Contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract for the termination and settlement of the contracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of the Contract. The total sum to be paid the Contractor under this subparagraph shall not exceed the total contract price plus reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made from the proceeds of any sales of supplies and manufacturing materials under paragraph (d), and the contract price of work not terminated.

104.01C **AUTHORITIES AND LIMITATIONS** - All work under the Contract shall be performed under the general direction of the Contracting Officer, who alone shall have the power to bind the Commonwealth and to exercise the rights, responsibilities, authorities and functions vested in him by the contract documents, except that he shall have the right to designate authorized representatives to act for him. The authorized Representatives are responsible for guiding the technical aspects of the project and for general surveillance of the work performed.

The authorized representatives shall not make any commitments or authorize any changes which constitute work not within the general scope of the Contract, change the expressed terms and conditions hereof or specifications incorporated or included herein, or by any act or omission authorize expressly or otherwise, a basis for any increase in the contract price or time for performance. Whenever any provisions in the Contract specify an individual (such as, but not limited to, Construction Contracting Officer, Inspector, or Custodian) or an organization (whether government or private) to perform any act on behalf of, or in the interest of the Commonwealth, that individual or organization shall be deemed to be the Contracting Officer's authorized representative under the Contract but only to the extent so specified. A copy of each document vesting authority in an authorized representative or designating an additional authorized representative shall be furnished to the Contractor.

The Contractor shall perform the Contract in accordance with any order (including but not limited to instruction, direction, interpretation or determination issued by an authorized representative in accordance with his authority to act for the Contracting Officer; but the Contractor assumes all the risks and consequences of performing the contract in accordance with any order (including but not limited to, instruction, direction, interpretation, or determination) of anyone not authorized to issue such order.

The work of the Contractor is subject to inspection to insure strict compliance with the terms of the Contract. No inspector is authorized to change any provision of the specifications without the written authority of the Contracting Officer, nor shall the presence or absence of an inspector relieve the Contractor from any requirements of the work.

104.01D Failures to Furnish Information and Records:

(a) If the Contractor or any subcontractor or the officers or agents of the Contractor or any subcontractor shall refuse or have refused, except as provided otherwise by the terms Contract, to furnish to any Commonwealth agency, or any establishment in the legislative or judicial branch of the Commonwealth, information or records reasonably pertinent to the Contract or any other Commonwealth contract in connection with which the Contractor or any such subcontractors has or shall have performed work or furnished materials or supplies or undertaken so to do, the following action may be taken:

(b) In the case of a refusal by the Contractor, its officers or agents, the Commonwealth may, after affording an opportunity to explain or justify such refusal, terminate the Contractor's right to proceed with the work under the Contract and thereupon the Commonwealth may avail itself of the rights and remedies provided in the "Termination for Default" clause, in addition to any other rights and remedies provided by law or under the Contract.

(c) In the case of a refusal by a subcontractor, its officers or agents, the Commonwealth may, after affording an opportunity to explain or justify such refusal, require the Contractor to terminate the subcontract without cost to the Commonwealth, or if the Contractor fails or refuses to effect such termination, the Commonwealth may terminate the Contractor's right to proceed with the work under the Contract and thereupon the Commonwealth may avail itself of the rights and remedies referred to in the "Termination for Default" clause.

104.03 Specifications and Drawings - Item (a) is supplemented as follows:

The Contractor will be supplied with a set of compact disc (CD) containing electronic files (PDF) of the contract plans and specifications including special provisions."

The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications shall be of like effect as if shown or mentioned in both. In case of difference between drawings and

specifications, the specifications shall govern. In case of discrepancy either in the figures, on the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such determination shall be at his risk and expense. The Contracting Officer shall furnish from time to time such detail drawings and other information he may consider necessary, unless otherwise provided.

In case of difference between small (plan views) and large scaled (detail) drawings, the large scaled drawings shall govern. Schedules on any contract drawing shall take precedence over conflicting information on that or any other contract drawing. On any of the drawings where a portion of the work is detailed or drawn out and the remainder is shown in outline, the parts detailed or drawn out shall apply also to all other like portions of the work.

Where the word "similar" occurs on the drawings, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the work.

Add the following to this subsection:

SHOP DRAWINGS, COORDINATION DRAWINGS, AND SCHEDULES:

- a. The Contractor shall submit shop drawings, coordination drawings, and schedules for approval as required by the specifications or requested by the Contracting Officer as follows:
 1. Shop drawings shall include fabrication, erection and setting drawings, schedule drawings, manufacturer's scale drawings, wiring and control diagrams, cuts or entire catalogs, pamphlets, descriptive literature, and performance and test data.
 2. Drawings and schedules, other than catalogs, pamphlets and similar printed material, shall be submitted in reproducible form with two prints made by a process approved by the Contracting Officer. Upon approval, the reproducible form will be returned to the Contractor, who shall then furnish the number of additional prints, not to exceed 10, required by the Contracting Officer.
- b. The Contractor shall submit shop drawings in catalog, pamphlet and similar printed form in a minimum of four copies plus as many additional copies as the Contractor may desire or need for his use or use by his subcontractors.
- c. Before submitting shop drawings on the mechanical and electrical work, the Contractor shall submit and obtain the Contracting Officer's approval of such lists of mechanical and electrical equipment and materials as may be required by the specifications.
- d. The Contractor shall check the drawings and schedules, shall coordinate them (by means of coordination drawings wherever required by the Contracting Officer) with the work of all trades involved before submission and shall indicate thereon his approval. Drawings and schedules submitted without evidence of the Contractor's approval may be returned for resubmission.
- e. Each shop drawing or coordination drawing shall have a blank area 5" x 5", located adjacent to the title block. The title block shall display the following:
 - Number and title of drawing,
 - Date of drawing or revision,
 - Name of project building or facility,
 - Name of Contractor and (if appropriate) name of subcontractor submitting the drawing,
 - Clear identity of contents and location of work, and
 - Project title and contract number.

- f. Unless otherwise provided in this contract or otherwise directed by the Contracting Officer, shop drawings, coordination drawings, and schedules shall be submitted to the Contracting Officer sufficiently in advance of construction requirements to permit no less than 10 working days for checking and appropriate action.
- g. Except as otherwise provided in paragraph (h), approval of drawings and schedules will be general and shall not be construed as:
 - 1. Permitting any departure from the contract requirements;
 - 2. Relieving the Contractor of the responsibility for any errors including details, dimensions, materials, etc.; or
 - 3. Approving departures from full-size details furnished by the Contracting Officer.
- h. If drawings or schedules show variations from the contract requirements because of standard shop practice or for other reasons, the Contractor shall describe such variations in his letter of transmittal. If acceptable, the Contracting Officer may approve any or all such variations and issue an appropriate change order. If the Contractor fails to describe such variations, he shall not be relieved of the responsibility for executing the work in accordance with the contract, even though such drawings or schedules may have been approved.

AS-BUILT DRAWING PREPARATION: Upon completion of the work to be performed under the Contract, and before final payment is made, the Contractor shall furnish the Commonwealth with two complete sets of "as-built" drawings on vellum sheet (24" x 36") and CD (AutoCAD Latest Version or as specified by the Contracting Officer). These sets shall include "marked up" prints of the contract drawings and such additional drawings as may be necessary to reflect the complete "as-built" work accomplished under the Contract. The "as-built" drawings shall be initiated at the beginning of the work and shall be maintained and kept current by the Contractor on the job site as the work progresses and until final completion and acceptance by the Commonwealth. Markings shall be accomplished in red and shall be complete and legible to assure that the information presented is readily usable. The "as-built" drawings submitted by the Contractor will be subject to review and approval of the Contracting Officer.

STANDARD REFERENCES:

(a) All documents and publications (such as, but not limited to, handbooks, codes, standards, and specifications) which are cited in the Contract for the purpose of establishing requirements applicable to equipment, materials, or workmanship under the Contract, shall be deemed to be incorporated herein as fully as if printed and bound with the specifications of the Contract, in accordance with the following:

(b) Wherever reference is made to Interim Federal Specifications, Interim Amendments to Federal Specifications, Interim Federal Standards, the Contractor shall comply with the requirement set out in the issue or edition identified in the Contract except as modified or as otherwise provided in the specifications of the Contract. Wherever reference is made to any document other than those specified in paragraph (a), the Contractor shall comply with the requirements set out in the edition specified in the Contract, or, if not specified, the latest edition or revision thereof, as well as the latest amendment or supplement thereto, in effect on the date of the Invitation for Bids on this project, except as modified by, as otherwise provided in, or as limited to type, class or grade by the specifications of the Contract.

(c) Federal Specifications and Federal Standards may be obtained from the Commonwealth Printing Office, Washington, D.C. 20420. Inquiries regarding "Commercial Standards", "Products Standards", and "Simplified Practice Recommendations" should be addressed to the Office of Product Standards, National Bureau of Standards, Washington D.C. 20234. Publications of associations referred to in the specifications may be obtained directly from the associations.

(e) Upon request, make available at the job site within a reasonable time, a copy of each trade manual and standard which is incorporated by reference in the Contract and which governs quality and workmanship.

STANDARD DETAILS: Standard Details are applicable when listed, bound with the specifications, noted on the drawings or referenced elsewhere in the specifications. Where the notes on the drawings indicate modifications, such modifications shall govern.

104.05 **Load Restrictions** – Add the following to this Subsection:

The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation.

When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

The following subsections are made part of this Section:

104.06 **Other Contracts** - The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other Contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or allow any act that will interfere with the performance of work by any other Contractor or by Government employees.

104.07 **Inspection of Works by Others** - For observing work that affects their respective properties, inspectors for the municipality, public agencies, and the utility companies shall be permitted access to the work, but all official orders and directives to the Contractor will be issued only by the Contracting Officer.

END OF SECTION 104

SECTION 105 - CONTROL OF MATERIAL

105.1 Source of Supply and Quality Requirements. Add the following to this subsection.

(a) Buy America Requirements:

- (1) Buy America applies only to the Federal-aid Highway construction program.
- (2) Applies to iron and steel products and their coatings.
- (3) All manufacturing processes must take place domestically. Manufacturing is any process that modifies the chemical content; physical shape or size; or final of a product. Manufacturing begins with the initial melting and mixing, and continues through the bending and coating stages. If a domestic product is taken out of the US for any process, it becomes foreign source material.
- (4) Materials must be permanently installed, not temporary. Temporary materials may be left in place at the contractor's convenience.
- (5) Minimal Use Criteria -When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$ 2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.
- (6) NAFTA does not apply. There is a specific exemption within NAFTA (article 1001) for grant programs such as the Federal-aid highway program. Similarly, the GATT and EEC agreements do not apply.
- (7) Buy America provision is in accordance with Title 23-Highways, Chapter I, Part 635, Subpart D.

Add the following to this Section:

105.06 Samples:

- (a) After award of the contract, the Contractor shall furnish, for the approval of the Contracting Officer, samples required by the specifications or by the Contracting Officer. Samples shall be delivered to the Contracting Officer or to the Engineer/Contracting Officer as specified or directed by the Contracting Officer. The Contractor shall prepay all shipping charges on samples. Materials or equipment for which samples are required shall not be used in the work unless approved in writing by the Contracting Officer.
- (b) Each sample shall have a label indicating the following:
 - Name of project building or facility,
 - Project title and contract number,
 - Name of Contractor and (if appropriate) the name of the subcontractor,
 - Identification of material or equipment with specification requirement,
 - Place of origin,
 - Name of sample producer and brand (if any), and
 - Samples of finished materials shall be identified with the finished schedule requirements.
- (c) The Contractor shall mail (under separate cover) a letter submitting each sample shipment and the label information required in paragraph (b). He shall enclose a copy of the letter with the sample shipment and send a copy of the letter to the Commonwealth representative on the project site. Approval of the sample shall be only for the characteristics of use named in such approval and shall not be construed to change or modify any contract requirement. Substitutions will not be permitted unless approved in writing by the Contracting Officer.

(d) Approved samples not destroyed in testing will be sent to the Commonwealth representative at the project site. Approved samples of hardware in good condition will be marked for identification and may be used in the work. Materials and equipment incorporated in the work shall match the approved samples. Other samples not destroyed in testing or not approved will be returned to the Contractor at his expense if so requested at the time of submission.

(e) Failure of any material to pass the specified test will be sufficient cause for refusal to consider, under the Contract, any further samples of the same brand or make of the material. The Commonwealth reserves the right to disapprove any material or equipment that was previously proven unsatisfactory in service.

(f) Samples of various materials or equipment delivered on the site or in place may be taken for testing by the Commonwealth representative. Samples failing to meet contract requirements will automatically void previous approvals of the item tested. The Contractor shall replace such materials or equipment found not to have met contract requirements, or there shall be adjustment of the contract price as determined by the Contracting Officer.

(g) Unless otherwise specified, when tests are required, only one test of each sample proposed for use will be made at the expense of the Commonwealth. Samples that do not meet specification requirements will be rejected. Testing of additional samples will be at the expense of the Contractor.

END OF SECTION 105

SECTION 106 – ACCEPTANCE OF WORK

106.07 Partial and Final Acceptance:

(b) **Final Acceptance** - Add the following to this Item:

Final acceptance includes clean up of the entire area within the project limits. Unless otherwise directed, upon completion of the work, remove from the vicinity of the work all rubbish, unused materials, concrete forms and other like material and construction equipment belonging to him or used under his direction during construction. In the event of his failure to do so to the satisfaction of the Contracting Officer, the same may be removed by the Government or otherwise, at the expense of the Contractor, and his surety or sureties shall be liable therefore.

Add the following to this Section:

106.08 Guarantees:

- a) Unless otherwise provided in the specifications, the Contractor guarantees all work performed under this contract to be in accordance with the contract requirements and free from defective and inferior materials, equipment, and workmanship for one year after the date of final acceptance or after the Government put in service.
- b) If, within any guarantee period, the Contracting Officer finds that the work needs to be repaired or changed because of the use of materials, equipment, or workmanship that in his opinion are inferior, defective, or not in accordance with the terms of the contract, he shall so inform the Contractor in writing and the Contractor shall promptly and without additional costs to the Government:
 - 1) Place in satisfactory condition all of such guaranteed work;
 - 2) Satisfactorily correct all damage to the roadway work and its components, equipment, the site, the building or contents therein, which is the result of unsatisfactory guaranteed work; and
 - 3) Satisfactorily correct any work, material, or equipment that is disturbed in fulfilling the guarantee, including any disturbed work, materials and equipment that may have been guaranteed under another contract.
- c) Should the Contractor fail to proceed promptly in accordance with the guarantee, the Government may have such work performed at the expense of the Contractor.
- d) Any special guarantees that may be required under the contract shall be subject to the stipulations set forth above, insofar as they do not conflict with the provisions of such special guarantees.
- e) The Contractor shall obtain each transferable guarantee or warranty of equipment, material, and installation thereof which is furnished by any manufacturer, supplier or installer in the ordinary course of the manufacturer's, supplier's, or installer's business or trade. In addition, the Contractor shall obtain and furnish to the Government all information which is required in order to make any such guarantee or warranty to the Government in sufficient time to permit the Government to meet any time limit requirement specified in the guarantee or warranty or, if no time limit is specified, prior to completion and acceptance of all work under the Contract.
- f) This clause is not intended to limit any rights that the Government may have as provided elsewhere in the Contract, or by law.

SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

107.01 **Laws to be Observed** – Revise this Subsection to read as follows:

(a) The Contractor is assumed to be familiar with all federal and local laws, codes, ordinances, and regulations which, in any manner, affect those engaged or employed in the work or the material or equipment used in or upon the site, or in any way affect the conduct of the work. No pleas of misunderstanding or ignorance on the part of the Contractor will, in any way, serve to modify the provisions of the contract.

(b) The Contractor, at all times, shall observe and comply with all Federal and local laws, codes, ordinances, and regulations in any manner affecting the conduct of the work, and the Contractor and his surety shall indemnify and save harmless the Commonwealth and all its officers, agents and servants any claim or liability arising from or based on the violation of any such law, code, ordinance, regulation, order, or decree, whether by himself or his employees.

(c) The Contractor shall be responsible for reporting to the Commonwealth Historical Preservation Office for verification and determination any discovery encountered during execution of this contract bearing archaeological, cultural, or historical content.

Add the following to this Subsection:

Permits and Responsibilities: Unless otherwise agreed, the Contractor shall, without additional expense to the Government, be responsible for obtaining all necessary licenses and permits and for complying with all applicable Federal, Commonwealth of the Northern Mariana Islands, and municipal codes and regulations in connection with prosecution of the work. The Contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the work, except for any completed unit of construction or portion thereof that has been accepted.

107.01A APPLICABLE TAXES - Without additional expense to the Owner, pay all applicable Federal and Territorial taxes. The successful bidder shall comply with Section 16200 and 19541.05 of the Territory of Commonwealth of the Northern Mariana Islands Code regarding licenses and taxes. In addition to the general contractor liability, subcontractors are also subject to these provisions. The successful bidder will be required to submit a list of his subcontractors and the monetary value of each subcontractor to be used for gross receipt tax purposes.

107.01B PERMISSION TO ENTER THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS - Permission to enter the Commonwealth of the Northern Mariana Islands must be secured from the CNMI Department of Commerce and the CNMI Department of Labor and Immigration, by filling out the requisite CNMI standard forms.

107.01C SOCIAL SECURITY - Afford Social Security System under the Commonwealth of the Northern Mariana Islands all employees including his subcontractors. The employee withholding is 7.65% of the first \$62,700.00 of wages earned. The employer contribution is a like amount. Additional information can be obtained from the Social Security Office, Commonwealth of the Northern Mariana Islands, Saipan.

107.01D TRANSPORTATION AND LODGING EXPENSE - If the Contractor utilized nonresident labor as defined in Title 49 of the CNMI Code, and if the Contractor provides either transportation, lodging or lodging expense, or room or board expenses to any such employee, then such Contractor shall provide the same benefits to resident employees, as defined in Title 49; provided, however, that transportation, lodging, or

lodging expenses; or room or board expenses need not be provided when a resident employee maintains his principal place of residence within normal commuting distance, as defined by regulations implementing Public Law No. 4C-49, from his place of employment with such Contractor.

- 107.01E OFFICIALS NOT TO BENEFIT - No member of Congress of the United States, member of the Commonwealth of the Northern Mariana Islands Legislature or the Governor of the Commonwealth of the Northern Mariana Islands shall be admitted to any share of the Contract, or to any benefit that may arise there from; but this provision shall not be construed to extend to the Contract if made with a corporation for its general benefit.
- 107.01F PATENT INDEMNITY - Except as otherwise provided, the Contractor agrees to indemnify the Commonwealth and its offices, agents, and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States and /or foreign country (except Letters Patent issued upon an application which is now or may hereinafter be, for reasons of national security, ordered by the Commonwealth to be kept secret or otherwise withheld from issue) arising out of the performance of the Contract or out of the use or disposal by or for the account of the Commonwealth of supplies furnished or construction work performed hereunder.
- 107.01G CONVICT LABOR - In connection with the performance of work under the Contract, the Contractor agrees not to employ any persons undergoing sentence of imprisonment at hard labor.

107.03 Bulletin Board - This subsection is revised to read as follows:

Furnish a bulletin board, suitable for outside installation and enclosed with a transparent window, for posting required posters on the project in a conspicuous place available to employees and applicants for employment. Place posters where minimum sunshine will strike thereon.

The bulletin board shall have minimum dimensions of three feet in the vertical and four feet in the horizontal and be installed so the bottom of the board is approximately three and one-half feet above the ground. The bulletin board shall remain the property of the Contractor after completion of the contract.

107.05 Responsibility for Damage Claims - Modify Items (b) and (c) to read as follows:

b) Bodily Injury Liability Insurance shall provide a limit of not less than \$100,000 for all damages arising out of bodily injuries to or death of one person; and subject to that limit for each person, a total limit of \$300,000 for all damages arising out of bodily injuries to or death of two or more persons in any one accident.

Property Damage Liability Insurance: Property Damage Liability Insurance shall provide a limit of not less than \$50,000 for all damages arising out of injury to or destruction of property in any one accident; and subject to that limit per accident, a total or aggregate limit of \$100,000 for all damages arising out of injury to or destruction of property during the policy period.

c) Comprehensive Automobile Liability Insurance: Coverage of this insurance for all owned, non-owned and hired vehicles shall have the following minimum amounts: Personal injury, \$100,000.00 each person, and \$300,000.00 each occurrence; Property damage, \$50,000.00.

The comprehensive general and automobile liability policies shall contain a provision worded as follows:

“The insurance company waives any right of subrogation against the Government of the Northern Mariana Islands which may arise by reason of any payment under this policy”.

Add the following to this Subsection:

Builder's Risk: The Contractor shall carry Builder's Risk (fire and lightning, typhoon, earthquake, vandalism and malicious mischief, and extended coverage) Insurance on all work in place and materials stored at the work site, including foundations and building equipment. The Builder's Risk Insurance shall be for the benefit of the Contractor and the Commonwealth of the Northern Mariana Islands as their interest may appear and each shall be named in the policy or policies as an assured. Policies shall be in effect at all times for the full cash value of all completed construction work, as well as materials in place and stored at the site, whether or not partial payment has been made by the Commonwealth of the Northern Mariana Islands. The Contractor may terminate this insurance on work taken over for occupancy by the Commonwealth of the Northern Mariana Islands as of the said work is accepted.

The Contractor shall procure and thereafter maintain workmen's compensation, comprehensive general liability, comprehensive automobile liability, and builder's risk insurances, and the Subcontractor shall procure and thereafter maintain workmen's compensation, comprehensive general liability, comprehensive automobile liability insurances with respect to their performance under the contract; provided, that the contractor may with the approval of the Contracting Officer, maintain a self insurance program. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time, as the Contracting Officer may, from time to time, require or approve, and with insurers approved by the Contracting Officer.

Submit three (3) copies of these insurance policies to the Contracting Officer before the start of construction. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Commonwealth in such insurance shall not be effective until 30 days after the Contracting Officer has received written notice from the insurer, as evidenced by return receipt of registered or certified letter.

The Contractor shall be liable for the torts and wrongful acts of its employees and staff members, and shall carry insurance necessary for the protection of its employees and staff members during the life of the Contract, and shall indemnify and hold harmless the Commonwealth from any and all claims, demands, suits, and causes of action whatsoever involving third parties arising out of or connected with the negligent performance of the Contract.

At the Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived. If the Contractor failed to do so, the Owner may serve a written notice to the Contractor to either pay the unpaid bills or withhold from the compensation of the Contractor an amount to pay all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully settled.

In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor. Any payments made by the Owner shall be considered payment made under the contract by the Owner to the Contractor. The Owner shall not be liable to the Contractor of any such payment made in good faith.

107.06 Contractor's Responsibility for Work – Add the following to this subsection:

Repair all private driveways and roads affected by change in grades or otherwise affected by the construction, and all public highways damaged by the Contractor's operation on or adjacent to these highways. Reconstruct driveways and private roads according to the typical section shown on the plans or as directed by the Contracting Officer. When shown on the "**Bid Schedule**," payment for such work will be made under Reconstruction of Driveways and Minor Streets. Repair private or public road to remain that are by his operation without cost to the Government. Provide

with temporary access to private driveways and roads affected by construction to avoid isolation at no additional without cost to the Government.

In case of an emergency that threatens loss of life, injury or property damage, take necessary action without instructions from the Contracting Officer as the situation may warrant. Notify the Contracting Officer immediately thereafter and submit any claim for compensation with supporting documents regarding the incurred expenses. The amount of compensation will be decided by agreement or arbitration.

- 107.06A FEES AND CHARGES – Pay all fees and charges pertaining to temporary connection to utilities for construction. The Contractor will apply for permanent utility connections with the assistance of the Commonwealth. The Commonwealth will pay all fees and charges regarding permanent utility connections. Pay all charges for the use of property outside of the work site.
- 107.06B SUPERINTENDENCE BY CONTRACTOR – Provide personal superintendence to the work or have a competent foreman or superintendent, satisfactory to the Contracting Officer, on the work at all times during progress, with authority to act for him. Employ such superintendent, foreman and workmen as are careful and competent. The Contracting Officer may demand the dismissal of any person employed by the Contractor in, about, or upon the work who engage in misconduct or be incompetent or negligent in the proper performance of duties, or neglects or refuses to comply with the directions given, and such person shall not be employed again thereon without the written consent of the Contracting Officer. Should the Contractor continue to employ, or again employ any person for whom the Contracting Officer has demanded dismissal under this clause, the Contracting Officer may withhold all payments, which are or may become due, or the Contracting Officer may suspend the work until such orders are complied with.
- 107.06C APPROPRIATENESS OF EQUIPMENT – Furnish such equipment as is considered necessary for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress. All equipment, tools, and machinery used for handling materials and executing any part of the work are subject to the approval of the Contracting Officer and shall be maintained in a satisfactory working condition. Equipment used on any portion of the work shall be such that no injury to the work, roadways, adjacent property, or other objects will result from its use. The contract may be terminated if the Contractor fails to provide adequate and proper equipment for the work.
- 107.06D PERFORMANCE OF WORK BY CONTRACTOR - Perform on the site and with his own organization, work equivalent to at least fifty one percent (51%) of the total amount of work to be performed under the contract. The Contracting Officer may reduce the percentage of work if he determines that it would be to the advantage of the Commonwealth.
- 107.06E CONDITIONS AFFECTING THE WORK - The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local condition which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the work without additional expense to the Commonwealth. The Commonwealth assumes no responsibility for any understanding or presentations concerning conditions made by any of its officers or agents prior to the execution of the Contract, unless so stated in the contract.
- Make a request for assistance from appropriate Commonwealth authorities to indicate the actual locations of existing utilities to preclude damage during construction. Make inquiries about construction requirements from the Technical Services Division, Department of Public Works prior to beginning work on the project.
- 107.06F STORM PROTECTION - The Contractor, at no additional cost to the Government, shall be responsible for the security and safety of the construction work and the site, including the

Contractor's campsite, when warnings of winds of gale force are issued. Gale winds are defined as having a sustained velocity of 34 knots (34 MPH) or greater and include winds of tropical storms and typhoon intensity.

Satisfactory job site clean-up is the initial, basic, day-to-day minimal preparation the Contractor can make for winds of destructive force. When warnings of winds of gale force are issued, the Contractor shall carry out, without delay, all directives concerning securing action to be taken which may be issued to him by the Contracting Officer or his designated representative. This preparation is in accordance with the contract terms and every practicable precaution shall be taken to minimize the danger to persons; to prevent damage to work in place, materials, supplies, equipment, adjacent structures, and property of others; and in the public interest.

- 107.06G SITE INVESTIGATIONS - The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides, or similar physical conditions at the site, the conformations and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Commonwealth, as well as from information presented by the drawings and specifications made as part of this contract. Any failure by the Contractor to acquaint himself with the available information will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Commonwealth assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the Commonwealth.

107.07 **Furnishing of Right of Way** – Revise this Subsection to read as follows:

The Government will furnish all lands, easements, and rights-of-way required for completion of the work. In acquiring easements or rights-of-way the Government will proceed as expeditiously as possible. However, in the event all rights-of-way or easements are not acquired prior to the beginning of construction, the Contractor shall begin work on such lands and rights-of-way as have been acquired. No claim for damage will be allowed by reason of the Government's delay in obtaining lands, easements, or rights-of-way. In the event of litigation or other delays in acquiring rights-of-way, the time allowed herein for completion of the work will be extended to compensate the Contractor for time actually lost by such delay.

107.08 **Sanitation, Health and Safety** - Add the following to this Subsection:

Adequate sanitary conveniences of an approved type for the use of persons employed on the work, and properly secluded from public observation, shall be provided and maintained by the Contractor in such a manner and at such points as shall be required or approved by the Contracting Officer. These conveniences shall be maintained at all times without nuisance, and this shall be strictly enforced. Upon completion of the work, they shall be removed from the premises, leaving the premises clean and free from nuisance.

The Contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction or portion thereof that has been accepted.

107.10 Environmental Protection.

(c) Mitigate damages as required. Add the following to this subsection:

The following mitigation measures have been identified for this contract:

(1) Compliance with U.S. Fish and Wildlife Service (USFWS)

- A. Clearing and grubbing should begin during the non-peak breeding season for nightingale reed-warbler (i.e., clearing should begin between **October through December or April through June**). Clearing and grubbing must not go beyond the Area of Potential Effect (APE) limits. These limits are shown in the drawings.
- B. One week prior to any clearing or construction within the project boundary, DPW must ensure that the applicant or their contractor identify areas of nightingale reed-warbler habitat within 164 feet along the section of the proposed project site to be under construction and have a qualified biologist experienced with nightingale reed-warbler identification (visual and by calls) and nest location accompany them to search the entire area for active nightingale reed-warbler nests. These searches will continue until biologist confirms whether a nightingale reed-warbler pair is nesting or not nesting, based on observations of the pair or observations of a nest.
- C. If any active nests are found immediately prior to construction, no construction shall be initiated within the 164 feet of the nest until the biologist determines that the young have fledged or the nest has become inactive, to avoid potential nest failure due to clearing or disturbances associated with construction. In order to avoid potential construction activities within the 164 feet of the active nest, the boundary will be clearly marked with flagging by the biologist, and construction crew and construction personnel will be notified to avoid that area. If more than sixteen (16) nests are detected (16 pairs=32 adults and up to 64 eggs nestlings, or fledglings), then DPW will need to initiate consultation with U.S. Fish and Wildlife Service (USFWS). Depending upon the location of the additional nest(s), work may continue if it avoids all direct and indirect impacts to the individual birds and the territory supporting the nest. Re-initiation of consultation would need to be concluded prior to any clearing or potential impact to or within the territory supporting the nest(s).
- D. Construction personnel are to be informed by qualified personnel {biologist(s) approved by DFW or DFW biologist} about the endangered nightingale reed-warbler and made familiar with the required terms of the Biological Opinion, including all conservation measures, reasonable and prudent measures, and terms and conditions, before construction begins. Training shall be conducted in languages other than English, as appropriate.
- E. A qualified biologist will monitor all nightingale reed-warblers with any part of their territories occurring within 164 feet of the proposed project site. Monitoring will begin at least one week prior to clearing and continue during, and for at least one month after clearing and construction. Monitoring will occur daily during the week prior to clearing and will occur on Mondays, Wednesdays, and Fridays during active clearing and construction and one month after construction is complete. This monitoring will be conducted by mapping the locations of nightingale reed-warblers in the area during an eight-minute monitoring period. The biologist should also note nightingale reed-warbler behaviors or vocalizations during monitoring. Each territory will be monitored from separate locations and each monitoring period will occur between sunrise and 1000 hours. The biologist should also record decibels of noise produced by the clearing and construction equipment as it is detected from the monitoring location. These data will provide DPW with better information regarding the impacts of noise to the nightingale reed-warbler. At one and two years post construction (during an active breeding period), the entire project area will be re-surveyed to determine the number of nesting pairs of the nightingale reed-warblers to assess indirect effects from the proposed project.

- F. A report shall be prepared to document monitoring data collected above, how each nest was avoided and the outcome of each nest (failed, successful, number of eggs, number of chicks, number of fledglings), behavioral observations and their relationship with noise (decibels produced), and maps of nightingale reed-warbler detection locations prior to, during, and after construction. The report shall be submitted by the biologist to the USFWS within three months after each monitoring event is completed. The reporting due date may be extended upon request by DPW and approved by USFWS.
- G. The biologist will have the authority to stop all activities that may result in take or destruction beyond that described in the Biological Opinion until appropriate corrective measures have been completed. The biologist is required to report immediately any unauthorized activities or project impacts to the USFWS and CNMI-DFW.
- H. Any equipment or construction materials imported from Guam that are to be used for the project must be searched for brown tree snake presence in the CNMI port, prior to transporting to the project or storage sites. Searches for the presence of snakes must be conducted by DFW staff using dogs and hand searches.

(2) Other Requirements

- A. All project-related materials and equipment (dredges, barges, backhoes, etc.) will be cleaned of pollutants, soils, seeds, etc. prior to being brought onto the project site.
- B. No project-related materials (fill, revetment rock, pipe, etc.) will be stockpiled in the water (intertidal zones, reef flats, stream channels, wetlands, etc.), on the beaches, or other locations where they could be washed into the water from adverse weather or tidal conditions.
- C. Dredging/filling in the marine environment shall be scheduled to avoid coral spawning and recruitment periods and sea turtle nesting and hatching periods.
- D. Dredging and filling in the marine/aquatic environment shall be designed to avoid or minimize the loss of special aquatic site habitat (coral reefs, wetlands etc.) and any ecological functions unavoidably lost as a result of the project shall be replaced.
- E. All debris removed from the project site will be disposed of at Marpi Landfill site.
- F. No contamination (trash or debris disposal, non-native species introductions, attraction of non-native pests, etc.) of adjacent habitats (reef flats, channels, open oceans, stream channels, wetlands, beaches, forests, etc.) will result from project-related activities. This shall be accomplished by implementing a litter-control plan and developing a Hazard Analysis and Critical Control Point Plan (HACCP—see <http://www.haccp-nrm.org/wizard/default.asp>) to prevent attraction and introduction of non-native species.
- G. Choice of heavy equipment should be restricted by ground pressure, and the storage and use of heavy equipment and construction materials limited by proximity to riparian and aquatic habitats.
- H. To minimize impacts to adjacent habitat, blaze orange construction fencing should be used to delineate the construction site and signs should be posted indicating no one is allowed beyond the barriers to prohibit personnel or equipment from damaging the habitat. These barriers should be removed upon project completion.

(3) Erosion Control

In addition to the requirements of Section 157, the following erosion control measures shall apply to this contract:

- A. All vehicle parking will be restricted to previously determined areas or existing roads. Vehicles belonging to the biological monitors and construction supervisors will be parked on existing access roads.
- B. Erosion control devices will be monitored on a weekly basis and augmented as necessary if new erosion points are discovered. In the event of a pending storm, erosion

control devices will be inspected to ensure that such devices are in place and are functional. If erosion control devices are found to be non-functional, they shall be repaired within 24 hours. Monitoring and maintenance of erosion control devices and adjacent disturbed areas will continue during and immediately after significant storm events.

- C. Turbidity and siltation from project-related work shall be minimized and contained to within the vicinity of the site through the appropriate use of effective silt containment devices and the curtailment of work during adverse tidal and weather conditions.
- D. The stockpiling of any materials will be located a minimum of 150 feet away from buffer zones or areas of potential runoff. Prior to the onset of precipitation, all stockpiles will be removed or covered and protected with soil stabilization measures, such as a temporary perimeter sediment barrier.
- E. Any under-layer fills used in the project will be protected from erosion with stones (or core-loc units) as soon after placement as practicable.
- F. Any soil exposed near water as part of the project shall be protected from erosion (with plastic sheeting, filter fabric etc.) after exposure and stabilized as soon as practicable (with native or non-invasive vegetation matting, hydroseeding etc.). Silt fences and/or turbidity curtains shall be placed strategically around the work area to contain sediments.
- G. The Contractor shall prepare an Environmental Protection Plan (EPP) / Erosion Control Plan (ECP) including a Stormwater Pollution Prevention Plan (SWPPP) based on the Contractor's proposed sequence of work, and shall obtain approval of the plan from the CNMI Bureau of Environmental and Coastal Quality (BECQ) and submit all required Notice of Intent (NOI) to the United States Environmental Protection Agency for compliance with the CNMI's National Pollutant Discharge Elimination System (NPDES) permit. The EPP shall include all requirements of BECQ including but not limited to Solid and Hazardous Waste Disposal Plan and Fugitive Dust Control Plan to obtain all related permits.

(4) Spill Prevention and Clean-Up

- A. The contractor shall prepare a spill prevention and clean-up plan. Spill control BMP's will be implemented anytime chemicals and/or hazardous substances are stored or used on the projects. Employees shall be educated in proper material handling, spill prevention, and clean-up. Clean-up materials shall be on-site and located near material storage and use.
- B. All heavy equipment should be stored, fueled, and maintained in a vehicle staging area placed 150 feet or more from any stream, water body or wetland, unless otherwise approved in writing by NOAA Fisheries.
- C. If refueling of project-related vehicles and equipment is to occur on the project site, it should take place 150 feet or more from the water and a contingency plan to control petroleum products accidentally spilled during the project shall be developed. Dedicated refueling areas shall be established and re-fueling practices defined in the spill prevention plan. Dedicated refueling areas shall be located at least 150 feet from any buffer-zones, aquatic habitats, or habitats supporting listed species. The fueling areas shall have signs posted designating the area and listing BMPs for refueling of vehicles and equipment. Drip pans or absorbent pads and containment booms shall be used during refueling, as appropriate, and stored on site to facilitate the clean-up of accidental petroleum releases. The contractor shall develop BMPs for this activity. The BECQ can assist in the development of BMPs for this activity.

- D. Vehicles operated within 150 feet of any stream, water body or wetland shall be inspected daily for fluid leaks before leaving the vehicle staging area.

(5) Invasive Species Prevention and Control

- A. The contractor shall prepare and implement BMPs to prevent the - introduction and spread of non-native species. The USFWS, DAWR, and/or the Department of Land Management/Forestry and Soils Division can provide guidance and training regarding the development and implementation of BMPs to prevent and control the spread of non-native species.
- B. The contractor shall institute a litter control program for the entire project site. All workers will ensure their food scraps, paper wrappers, food containers, cans, bottles, and other trash from the project area are deposited in covered or closed trash containers. The trash containers shall be removed from the project area at the end of each working day.
- C. All tools, gear, and construction scrap shall be removed upon completion of work in order to prevent the attraction of non-native pests (mites, rats, etc.). The Contractor shall include this activity in the BMPs.
- D. All on-site personnel should receive instruction to immediately kill any brown tree snakes (*Boiga irregularis*) found on the property. The Contractor shall include this activity in the BMPs.
- E. The contractor shall ensure that any materials coming from places outside of CNMI, are thoroughly searched for the presence of brown tree snake. The Contractor shall include this activity in the BMPs. The United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) can help with development of BMPs for this activity.

(6) Archaeological Investigations

- A. There are a total of seven archeological sites that have been identified within the proposed construction area, as shown on the plans. Prior to beginning construction, the Contractor shall provide excavation equipment and operators to conduct controlled excavations in these areas under the direction of DPW's Archaeologist. All work related to controlled excavations will be paid for on a time – and - materials basis under Pay Item 11001 (Force Account). The Contractor shall assume a 30 calendar day period for completion of the controlled excavations. The Contractor may begin work in other areas while performing the controlled excavations, subject to the approval of DPW's Archaeologist.
- B. Whenever the Contractor encounters sites of potentially historic or archaeological significance such as walls, platform, pavements and mounts, or remains such as artifacts, burials, concentration of charcoal or shells, work shall cease in the immediate vicinity of the site and the site shall be protected from damage. The Contractor shall suspend any work that may affect the site and inform the Project Engineer immediately. Upon direction by the Project Engineer, the Contractor shall provide and install temporary fencing to protect such sites. The Contractor shall not resume the work suspended without prior written direction of and subject to the conditions set by the Project Engineer. The Contractor and/or Subcontractor shall not claim compensation for any delay of work as a result of any unforeseen archeological site discovery during construction. For delays due to the discovery, time extensions may be allowed in accordance with Subsection 108.03 "Determination and Extension of Contract Time".

(7) Worker Education

- A. The contractor shall review all BMPs and conservation measures with all workers and made available on the project site. This includes species and habitat specific measures, the erosion control requirements, and the spill prevention and control plan.
- B. Upon completion of all worker education described above, workers will sign a form stating that they attended the training and understand and will implement all the conservation measures and protection measures. Training shall be conducted in languages other than English, as appropriate.

107.11 Protection of Forests, Parks, and Public Lands – Add the following to this Subsection:

PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS:
The Contractor shall preserve and protect all existing vegetation such as trees, shrubs and grass on, or adjacent to, the site of work which is not to be removed and which does not reasonably interfere with the construction work. Care shall be taken in removing trees authorized for removal to avoid damage to vegetation deemed to be in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment, or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound as directed by the Contracting Officer.

The Contractor shall protect from damage all existing improvements and utilities at or near the site of the work, the location of which is made known to him, and will repair or restore any damage to such facilities resulting from failure to comply with requirements of the Contract or the failure to exercise reasonable care in the performance of the work. If the Contractor fails or refuses to repair any such damage promptly, the Contracting Officer may have the necessary work performed and charge the cost thereof to the Contractor.

END OF SECTION 107

SECTION 108 - PROSECUTION AND PROGRESS

108.01 **Commencement, Prosecution, and Completion of Work** – This subsection is supplemented as follows:

The Contractor shall be required to:

- (a) Commence work under this contract within 15 calendar days after the Contractor received the **Notice to Proceed**,
- (b) Prosecute the work diligently, and
- (c) Complete the entire work and ready for use within **300 calendar days**. The time stated for completion shall include final cleanup of the premises.

108.02 **Subcontracting** – Add the following to this subsection:

The Contractor shall perform on the site, and with its own organization, work equivalent to at least 51 percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer decides that the reduction would be to the advantage of the Government. On all portions of the work that are sublet, the Contractor shall furnish the Contracting Officer two copies of the subcontract agreement.

(a) Nothing contained in this contract shall be construed as creating any contractual relationship between any subcontractor and the Government. The divisions or sections of the specifications are not intended to direct the Contractor in dividing the work among subcontractors, or to limit the work performed by any trade.

(b) Within ten (10) days after award of any subcontract by either the Contractor or any of his subcontractors, the Contractor shall deliver to the Contracting Officer a statement setting forth the name and address of the subcontractor and a summary description of the work subcontracted.

(c) The Contractor shall be responsible to the Government for acts and omissions of his own employees and of subcontractors and their employees. He/she shall also be responsible for the coordination of the work of the trades, subcontractors, and suppliers.

(d) The Commonwealth will not undertake to settle any differences between or among the Contractor, subcontractors, and suppliers.

108.03 **Determination and Extension of Contract Time** - The following is added to this Subsection:

No compensation will be made for overhead costs resulting from contract time extensions.

108.04 **Failure to Complete the Work on Time** – Delete the second paragraph of this Subsection and substitute the following:

Performance time for completion of this project is **300 calendar days** upon issuance of Notice to Proceed. Liquidated damages for delays beyond the established completion date will be assessed according to Table 108-1 of the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP-03) or Three Thousand Three Hundred Dollars (\$2,200.00) whichever is greater.

If the Government terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Government in completing the work.

If the Government does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated until the work is completed or accepted.

108.05 **Stop Order** – Revise this Subsection to read as follows:

(a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Commonwealth, including, but not limited to suspensions for unfavorable weather or other essential conditions, failure on the part of the Contractor to prosecute properly the work in accordance with the contract, or failure of the Contractor to carry out orders or to remove defective materials or work.

(b) In the event of a suspension of work by the Contracting Officer under paragraph (a), for any reason over which the Contractor has or had no control, the Contractor may be reimbursed for actual money expended on the job during the period of suspension. No allowance will be made for anticipated profits. The period of suspension shall be computed from the date set out in written order for work to cease until the date of the order for work to resume. Claims for such compensation shall be filed with the Contracting Officer within 10 days after the date of the order to resume work, or such claim will not be considered. The Contractor shall submit with its claim substantiating papers covering the entire amount shown on the claim. The Contracting Officer shall take the claim under consideration, and may make such investigations as are deemed necessary, and shall be the sole judge as to the equitability of such claim and such decision shall be final.

(c) If the performance of all or any part of the work, for an unreasonable period of time, is suspended, delayed, or interrupted by an act of the Contracting Officer in the administration of the Contract, or by his failure to act within the time specified in the Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of the Contract (excluding anticipated profit) necessarily caused by such unreasonable suspension, delay, or interruption, and the contract shall be modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent: (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor; or (2) for which an equitable adjustment is provided for or excluded under any other provision of the Contract.

(d) No claim under paragraph (c) shall be allowed: (1) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

(e) The Contractor shall not suspend the work without written approval by the Contracting Officer, and prior to resuming work shall give the Contracting Officer forty-eight (48) hours notice to afford opportunity to re-establish inspection.

(f) No provision of this clause shall be construed as entitling the Contractor to compensation for delays due to inclement weather, delays due to failure for surety, for suspensions made at the request of the Contractor, or for any other delay provided for in the contract documents, including all amendments, addenda, and change orders.

END OF SECTION 108

SECTION 109 - MEASUREMENT AND PAYMENT

109.01 Measurement of Work – Add the following to this subsection:

Within three (3) working days after acknowledgment of Notice to Proceed, the Contractor shall submit for approval a schedule of the estimated value of all lump sum items shown on the Bid Schedule. The format to be used shall be furnished by the Contracting Officer. These values if approved by the Contracting Officer will be used as a basis for deciding percentage of completion for partial payments and, if deemed necessary, as a basis of change orders.

All dimensions shown on existing work and all dimensions required for work that is to connect with work now in placed shall be verified by the Contractor by actual measurement of the existing work. Any discrepancies between the contract requirements and the existing conditions shall be referred to the Contracting Officer before any work affected thereby has been performed.

109.06 Pricing of Adjustments – Revise this subsection to read as follows:

Price Adjustments will not be allowed because of variations in contract quantities, except for major items and as provided below:

a) When the quantity of work or material to be furnished is increased by more than 25% of the quantity shown in the bid schedule, the Contractor shall be entitled to an equitable price adjustment on that portion of work over the 25% increase. Price adjustment shall not exceed an additional 15% of the unit bid price.

b) When the quantity of work or material to be furnished is decreased by more than 25% of the quantity shown in the bid schedule, the Contractor shall be entitled to an equitable price adjustment on that portion of work over the 25% reduction. Price adjustment shall not exceed an additional 50% of the unit bid price.

For changes and variations in accepted quantities of items, the prices agreed upon and any agreed adjustments in contract time will be incorporated in the written order issued by the Contracting Officer, which will be so written as to indicate acceptance for the Contractor as evidenced by his signature.

No extended overhead cost shall be considered resulting from Change Orders. Overhead cost shall remain the same according to original Schedule of Estimated Values submitted in the bid by the Contractor.

109.08 Progress Payment – Revise this Subsection to read as follows:

The Commonwealth will pay the contract price as provided in this clause.

The Commonwealth will make progress payments monthly as the work proceeds or at more frequent intervals as determined by the Contracting Officer, on estimates approved by the Contracting Officer.

Before the first progress payment under the Contract becomes due, the Contractor shall prepare a breakdown of the contract price acceptable to the Contracting Officer showing the amount included therein for each principal category of the work, in such detail as requested. The values in the breakdown will be used to provide a basis for determining progress payments. The contractor's overhead, profit and cost of bonds shall be prorated throughout the life of the contract.

Except as provided in the Contract, the contract price shall include all applicable Federal, Commonwealth of the Northern Mariana Islands, and local taxes and duties.

Estimates on which progress payments are based shall include the value (as determined by the Contracting Officer) of satisfactory in place work performed pursuant to change orders. Preparatory work done will not be taken into consideration in preparing estimates upon which progress payments are based.

The Contracting Officer, at his discretion, may authorize payments for materials delivered and stored (Undistributed Material) on the work site. The Contractor is fully responsible for the materials delivered and stored by him. Material on hand (Undistributed Material) meeting the requirements of the contract that are to be incorporated in the work whether delivered in the vicinity of the project site or stored in acceptable storage places will be considered for partial payments up to 50% of its total cost. Partial payment for material on hand does not constitute acceptance of such material for use in completing items of work. Partial payments will not be made for living or perishable material until incorporated into the project. The quantity paid will not exceed the corresponding quantity estimated in the contract.

The Contractor, prior to receiving a progress or final payment under the Contract, shall submit to the Contracting Officer a certification that the Contractor has made payments from the proceeds of prior payments, or that he will make timely payment from the proceeds of the progress payments or final payment due him, to his workers, subcontractors, and suppliers in accordance with the Contractor's contractual agreement with them.

The Contractor and Subcontractor must comply with the requirements of Statement of Compliance during each progress payment. The need for the statement of compliance resulted from the amendment of the Davis-Bacon Act.

In making each progress payment, there shall be retained ten percent (10%) of the estimated amount until final completion and acceptance of the contract work. However, if the Contracting Officer, at any time after fifty percent (50%) of the work has been completed, finds that satisfactory progress is being made, the Contracting Officer may authorize any of the remaining progress payments be made in full with no retainage. Also, whenever the work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the Commonwealth, at his discretion, may release to the Contractor all or a portion of such excess amount. Furthermore, upon completion and acceptance of each separate building, public work, or other division of the contract on which the price is stated separately in the contract, payment may be made therefore without retention of a percentage.

All material and work covered by progress payments made shall thereupon become the sole property of the Commonwealth, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which the payments have been made or the restoration of any damaged work, or as waiving the right of the Commonwealth to require the fulfillment of all of the terms of the contract.

109.09 Final Payment – Revise this Subsection to read as follows:

Upon completion and acceptance of all work, the amount due the Contractor under the Contract shall be paid upon the presentation of a properly executed voucher and after the Contractor shall have furnished the Commonwealth with a written release of all claims against the Commonwealth arising by virtue of the Contract, other than claims stated in amounts as may be specifically excepted by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under the Contract has been assigned under the "Assignment of Claims" clause, a release may also be required of the assignee.

Final payment to the Contractor will not be processed until the Contracting Officer verifies that all "as-built" information has been properly recorded on the "As-Built Drawings" as required by the contract.

Add the following Subsections:

109.10 ASSIGNMENT OF CLAIMS - If the Contract provides for payments aggregating One Thousand Dollars (US\$1,000.00) or more, claims for monies due or to become due the Contractor from the Commonwealth under the Contract may be assigned to a bank, trust company or other financing institution, including any U.S. federal lending agency, and may thereafter be further assigned or reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under the Contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing.

In no event shall copies of the Contract Documents or of any drawings, specifications, or other similar documents relating to work under the Contract, if marked "Secret", "Top Secret" or "Confidential", be furnished to any assignee, nor may any part of all the Contract so marked be disclosed to such assignee without the prior written authorization of the Contracting Officer.

109.11 DIFFERING SITE CONDITION:

- (a) The Contractor shall promptly, and before such conditions are disturbed, notify the Contracting Officer in writing of:
 - (i) Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract, or;
 - (ii) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered, and generally recognized as hindering work of the character provided for in the Contract.
- (b) The Contracting Officer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for performance of, any part of the work under the Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.
- (c) No claim by the Contractor under this clause shall be allowed unless the Contractor has given notice required in (a) above; provided, however, the time prescribed therefore may be extended by the Commonwealth.
- (d) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.
- (e) The contractor shall submit all claims for equitable adjustment in accordance with, and subject to the requirements and limitations set out in paragraph (a) of the "Equitable Adjustment" clause.
- (f) Upon written request by the Contracting Officer, the Contractor shall submit a proposal, in accordance with the requirements and limitations set out in paragraph (a) of the "Equitable Adjustment" clause, for work involving contemplated changes covered by the request, within the time limit indicated in the request or any extension of such limit as may be subsequently granted. If, within a reasonable time after receipt of such a proposal, the Contracting Officer orders the Contractor to proceed with the performance of the work contemplated, the proposal submitted prior to the order shall constitute the Contractor's statement of the monetary extent of claim for equitable adjustment.

109.12 **EQUITABLE ADJUSTMENTS:**

- (a) The Contractor's written statement of the monetary extent of a claim for equitable adjustment shall be submitted in the form of a lump sum proposal (unless otherwise requested by the Contracting Officer) with an itemized breakdown of all increases or decreases in the cost of the Contractor's and all subcontractors' work, in at least the following detail:
 - 1. Material quantities and unit costs,
 - 2. Labor costs (identified with specific item of material to be placed or operation to be performed),
 - 3. Workmen's Compensation and Public Liability Insurance overhead, and
 - 4. Employment taxes under FICA, FUTA, and CNMI Social Security System.
- (a) The percentage for overhead, profit, and commission shall be negotiated and may vary according to the nature, extent, and complexity of the work involved, but in no case shall exceed fifteen percent (15%) of the estimated cost of the work, and shall be considered to include, but is not limited to, insurance other than that mentioned in this clause, bonds, use of small tools, incidental job burdens, and general office expense. No percentages for overhead, profit or commission, will be allowed on employment taxes under FICA, FUTA, and CNMI Social Security System.
- (b) The Contractor shall submit with the proposal, any request for time extension related to the claim for equitable adjustment.
- (c) In considering a proposal, the Contracting Officer will make check estimates in detail, utilizing unit prices where specified or agreed upon, with a view to arriving at an equitable adjustment.
- (d) After receipt of a proposal with a detailed breakdown, the Contracting Officer shall act promptly thereon. Provided, however, that when the necessity to proceed with a change does not allow sufficient time to properly check a proposal, or in the event of failure to reach an agreement on a proposal, the Contracting Officer may order the Contractor to proceed on the basis of price to be determined at the earliest practicable date but not to be more than the increase or less than the decrease proposed.
- (e) Except in unusual cases where neither the Contractor nor the Commonwealth can ascertain the full extent of the work which will be required pursuant to a change until the work involved therein has been substantially completed, final agreement on a proposal shall be effected no later than the time when the work involved is estimated by the Contracting Officer to be 50% complete; in the event final agreement cannot be reached by that time, the Contracting Officer shall issue a unilateral determination as to the equitable adjustment of the contract price and the time required for performance.

END OF SECTION 109

Section 110 - FORCE ACCOUNT
(Section added to FP-03)

110.01 **Description** - This work consists of furnishing labor, material, equipment and tools for construction work ordered by the CO not otherwise provided for under the contract and unforeseen items not shown on the plans that are necessary to complete the project.

110.02 **General Requirements** - Payment for work performed on a force account basis will be made as follows:

(a) Labor:

- (1) Wages - Before beginning work under force account, agree to a force account wage rate excluding fringe benefits, for each labor classification and foreman. The wage rates shall not be in excess of the rates paid for comparable work on the project. All labor and foremen employed on the force accounts work will be paid at the agreed wage rates.
- (2) Payroll costs – The Contractor will receive a fixed fee of 35% of the total actual cost of wages paid for all labor and foremen. This fee shall be the compensation to cover the cost of payroll tax, levies, insurance subsistence or travel costs, overheads, bonds and other general expenses.
- (3) Subsistence – Subsistence and/or travel costs paid for labor and foremen will be paid at their actual documented cost.
- (4) Overhead and Profit – An overhead factor of 10% will be applied to the direct costs determined in (1), (2), and (3) above. A profit factor of 10% will then be applied to the direct costs plus overhead costs.

(b) Material – The actual invoice cost of material delivered to the work and accepted will be paid. Transportation costs, exclusive of equipment costs paid in (c) below, will also be paid as part of the cost of material.

A 10 % overhead factor followed by a 10% profit factor will be applied to the cost of material.

(c) Equipment:

- (1) Contractor Owned Equipment – Equipment rates for all equipment and machinery (other than small tools) owned by the Contractor and/or subcontractor and authorized for use will be determined according to Subsection 109.06(b)(1)(c).
- (2) Rented Equipment – When a piece of equipment is rented or leased exclusively for the force account work, the actual invoice amount plus operating expenses will be paid provided such rates are reasonably in line with prevailing market rates for such equipment.
- (3) Owner Operated Equipment – Payment for owner-operated equipment used on force account work will be based on the actual paid invoice plus a markup of 5%.
- (4) Transportation Cost – Transportation cost may be in the form of equipment hours (if the equipment is moved under its own power), common carrier invoice amounts, or equipment and labor hours (if moved by the Contractor's and/or subcontractor's own forces). Expenses for moving each piece of equipment to and from the force account work site will be paid provided:

- (a) Transportation costs are not included in any other invoice.
 - (b) The equipment is obtained from the nearest approved source.
 - (c) The return charges do not exceed the delivery charges.
 - (d) The equipment is not used at the force account work site on other contract work immediately before, after, or during the force account work.
- (5) Overhead and Profit – A 10% overhead factor followed by a 10% profit factor will be allowed for all equipment costs as determined in (1), (2), and (4).
- (6) Miscellaneous – No additional allowance will be made for general superintendence, the use of small tools, or other costs for which no specific allowance is provided.
- (7) Subcontracting – Invoiced amounts for force account work performed by subcontractors are limited by (a) through (d) above. Payment will be made for the approved subcontractor invoice plus a markup of 5% for administrative costs and 5% for GRT in connection with the subcontract work.
- (8) Records and Statements – Maintain a daily record of force account work on form provided or approved. Include the following detail:
- a. Name, classification, date, daily hours, total hours, rate, and extension for each laborer and foremen. At the end of the pay period, support this information with copies of certified payroll.
 - b. Designation, dates, daily hours, total hours, rental rate, and extension for each unit of equipment.
 - c. Quantities of material, prices, and extensions.
 - d. Transportation of material.

Attach supporting invoices for material used and transportation charges.

If material used on the force account work is not specifically purchased for such work but is taken from the Contractor's stock, furnish and affidavit in lieu of an invoice certifying that the material was taken from stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the Contractor.

Compare the records of the cost of force account work at the end of each day. The Contractor and the CO shall sign the record and each party must retain a copy.

- (9) Payment – No payment will be made for work performed on a force account basis until the signed records and statements required in (f) have been prepared.

Partial payment will be made for work performed on Force Account after receipt for the request for partial payments covering the work performed during the preceding calendar month. In preparing estimates, the material delivered on site and preparatory work may be taken in consideration provided that no payments for materials on site will be made unless such request is accompanied by a receipt or certification showing that the Contractor has made full payment to the supplier for such materials.

Payment will be made under Force Account Work in the Bid Schedule.

END OF SECTION 110

SECTION 151 - MOBILIZATION

151.03 **Payment** – Add the following to this subsection:

When there is no pay item shown in the Bid Schedule, mobilization will not be paid for directly. It will be considered obligation of the Contractor for the completion of the project.

END OF SECTION 151

SECTION 152 - CONSTRUCTION SURVEY AND STAKING

152.01 Item (a) of this subsection is modified as follows:

(a) Personnel - Furnish technically qualified survey crew that can perform in timely and accurate manner. An approved crew supervised by duly licensed surveyor shall be on the project whenever surveying/staking is in progress.

152.02 **General** – Add the following to this Subsection:

Provide new monuments, where shown or specified. Notify the CO if any previously established reference points have been destroyed or displaced, or that none have been established.

Protect and preserve established benchmarks and monuments and make no change in the locations without written approval of the CO. Established reference points which may be lost, covered, destroyed, or disturbed in the course of performance of the work under the Contract or which require shifting because of necessary changes in grades or locations shall, subject to prior approval of the Contracting Officer, be replaced and accurately located (as appropriate) at the Contractor's expense by a CNMI licensed land surveyor.

Verify the figures shown on the survey and site plan before undertaking any construction work and be responsible for the accuracy of the finished work.

Upon approval of the layout plan, reference all points requiring monuments including all existing survey control monuments subject for resetting, in accordance with approved surveying standard practices and methods certified by a duly registered land surveyor registered in the CNMI, preferably by two (2) intersecting lines. Place reference points far enough to avoid from being disturbed or displaced during the construction.

Set construction stakes establishing lines, slopes, cut or fill, profile grade, and other control deemed necessary to properly control the road work or as directed by the CO.

152.03 **Survey and Staking Requirements:**

e) **Centerline re-establishment** - Revise the last sentence of this Item to read:

Establish centerline, as many times as necessary, while constructing the road.

f) **Grade finishing stakes** - Add the following to this Item:

Set stakes at 50 feet interval in all ditches to be paved. Use brushes or guard stakes at each stake. For sub-grade, use red top hubs and for aggregate course(s), use blue top hubs.

(g) **Culverts** – Add the following to this Item.

Discuss general culvert design criteria (grade, cover, skew, end treatment, etc.) and verify in the field, the approximate location of each individual structure with the CO prior to surveying, designing, and staking culverts.

(4) Add the following to this sub-item:

Plot on 1 inch = 10 feet scale.

(l) **Miscellaneous survey and staking** – Add the following to this Item.

(11) Re-establishing land survey monuments, property corners, U.S.G.S. Benchmarks, and U.S.G.S. Control Points found within the construction limits.

152.04 **Acceptance** – Add the following to this Subsection:

Furnish an As-Built drawing based on the actual survey data of the completed project in, AutoCAD (Version 2002) or latest version, as directed by the C.O. The As-Built must be certified by a Land Surveyor registered in the CNMI.

152.05 **Measurement** – Add the following to this subsection:

Construction Survey and Staking shall be measured by the lump sum to include all materials, labor and equipment necessary to complete the work as specified.

152.06 - Delete this subsection and replace with the following:

Construction Survey and Staking will be paid on a Lump Sum Basis.

Surveying of the completed project for As-built purposes will not be measured for direct payment but will be considered subsidiary obligation of the Contractor for the completion of the contract.

END OF SECTION 152

SECTION 154 - CONTRACTOR SAMPLING AND TESTING

154.03 **Testing** – Add the following to this Subsection:

Provide independent laboratory facility whether on site or off site, required to perform the tests under this section at the expense of the Contractor.

154.06 **Measurement** – Delete this subsection and replace with the following:

Contractor sampling and testing shall not be measured separately but will be considered incidental to the work.

154.07 **Payment** – Delete this subsection and replace with the following:

Contractor sampling and testing shall not be paid separately but will be considered incidental to the work.

END OF SECTION 154

SECTION 155 - SCHEDULE FOR CONSTRUCTION CONTRACTS

155.02 **General** – Revise 2nd Paragraph to read as follows:

Use the Critical Path Method (CPM) to develop the construction schedule for the total contract work.

155.03 Bar Chart Method (BCM) – Delete this paragraph in its entirety.

155.06 **Schedule Updates** - The following is added to this subsection:

Failure of the Contractor to maintain the progress schedules will be considered justification for withholding progress payments.

If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take necessary steps to improve the progress, including those that may be required by Contracting Officer, without additional cost to the Government.

155.08 **Measurement** - This subsection is revised to read as follows:

Construction schedules will not be measured for direct payment. It will be considered subsidiary obligation of the Contractor for the completion of the contract.

END OF SECTION 155

SECTION 156 – PUBLIC TRAFFIC

156.01 - Add the following to this subsection:

Special consideration shall be made in controlling and protecting pedestrian traffic within the project limits.

156.03 Accommodating Traffic During Work.

Delete the last sentence of the first paragraph and replace with the following:

Submit alternate traffic control proposals according to Subsection 104.03. The Project Engineer will review the alternate traffic control proposal within 5 days after receipt and notify the Contractor if it is accepted or if revisions are required. If revisions are required, the Contractor shall revise the proposal and resubmit for approval before implementing the alternate traffic control on the project.

Add the following to this Subsection:

Phasing of the work shall be done so that free flowing traffic will take precedence over work operations and will accommodate inspection and measurement for payment of the work.

Maintain access to private properties and driveways at all times.

156.04 Maintaining Roadways During Work. - Delete item (c) in its entirety.

156.05 Maintaining Roadways During Non-Work Periods. - Delete the last sentence of this subsection.

156.06 Limitations on Construction Operations. - Add the following to this subsection:

(k) Work that requires equipment or personnel to be in the traveled way shall not be performed during peak travel periods during the normal work week (Monday through Friday), between the hours of 6:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. Work may be performed within these periods and during night-time and weekend hours if allowed by the Project Engineer.

(l) When not in use, temporary signs and traffic devices shall be removed from the travelled way so that the message is not visible to the motorist.

END OF SECTION 156

SECTION 157 - SOIL EROSION CONTROL

157.03 General – Add the following to this Subsection:

Submit detailed site specific measures for controlling erosion for approval prior to implementation. Provide working drawings and associated data that are at least 8½ inches by 11 inches but not larger than 24 inches by 36 inches. Include the following in the plan:

Address contractual requirements for storm water runoff permits, environmental commitments, and other permit requirements.

- Location of each proposed erosion control measures.
- Types of each erosion control measure.
- A schedule detailing coordination of erosion control measures with the various construction operations or stages. Include the furnishing, installation, maintaining, and removal of temporary devices and the installation of permanent erosion control features.
- A schedule outlining the proposed schedule of clearing and grubbing, excavation, embankment, and culvert operations such that the area of disturbed or erodible material is minimized. Schedule the work such that temporary and permanent erosion measures can be incorporated at the earliest practical time.
- Construction method used in various items of work to minimize erosion.

At least 5 days prior to the pre-construction conference, designate in writing a person responsible for supervising the erosion control and water quality measures throughout the duration of the project. This person shall not be the project superintendent. The erosion control/water quality supervisor shall be responsible for:

- a. Developing and implementing an effective erosion control plan, including modifications and updates.
- b. Directing the construction, operations, and dismantling of temporary and permanent erosion control features.
- c. Implementing storm shutdown procedures.
- d. Monitoring the turbidity of waters adjacent to the project. Take turbidity measurements using an HF-DRT 15 turbid meter or equivalent upstream of the project and 500 feet downstream of the area of the highest turbidity. If the measurements show and increase of 10 NTU or more, immediately suspend the operations in the vicinity of the problem area and modify the erosion control plan to eliminate the cause of the high turbidity. Document all turbidity readings, locations and actions taken, if any. Provide the Contracting Officer copies of the readings within 24 hours. Also provide documentation of the meter calibration.

157.04 Controls and Limitation of Work – Add the following to this Subsection:

The Contracting Officer may limit the area of clearing and grubbing, excavation, and borrow and embankment operations in progress commensurate with the Contractor's ability and progress in keeping the finish grading, mulching, seeding and other such permanent erosion and pollution control measures current.

When temporary erosion control measures are required due to the Contractor's negligence, carelessness, or failure to install permanent controls as part of the work in a timely manner, provide temporary measures at no cost to the Government.

Revise Item (f) to read:

Construct temporary channels or otherwise divert live streams around or through work areas.

157.05 **Filter Barriers** – Delete the reference to brush barriers.

Measurement and Payment

157.15 and 157.16 Revise this subsections to read as follows:

Preparation of site specific measures for controlling erosion and monitoring turbidity of waters adjacent to the project site during the life of the contract, and subsequent removal of additional erosion control items needed to implement the approved plan shall not be measured and paid for separately, but will be considered incidental to complete the work.

END OF SECTION 157

SECTION 201 - CLEARING AND GRUBBING

201.05 **Grubbing** – Add the following to this Subsection:

e) Remove existing subsurface roots larger than 1½ inches diameter and matted roots within the area bounded by the lines five (5) feet outside any foundation of structure. Remove all subsurface roots larger than 1½ inches diameter and all matted roots to a depth of 18 inches below the sub-grade, shoulder, slope or existing grade. Areas other than specified above shall be cleared of trees, etc.

(f) Remove all grass and other vegetation with roots less than 1-inch in diameter to a minimum depth of six (6) inches.

201.06 **Disposal** – Revise this Subsection to read as follows:

Where economical and practically feasible, the Contractor is urged to recycle material. Dispose of debris and unsuitable and excess material as follows:

(a) Remove from project-Recycle or dispose of material legally off the project. Furnish a statement documenting the nature and quantity of material processed or sold for recycling. Otherwise, furnish a signed copy of the disposal agreement before disposal begins. Dispose of clearing and grubbing debris to Marpi Landfill or other locations, if properly approved by the Contracting Officer.

END OF SECTION 201

SECTION 202 - ADDITIONAL CLEARING AND GRUBBING

202.09 **Measurement** - Revise the second paragraph to read as follows:

Removal of individual trees will be measured by the each. Do not include trees less than 6 inches in diameter. Diameter will be the average of the longest and shortest measured 3 feet from the ground.

END OF SECTION 202

SECTION 203 - REMOVALS OF STRUCTURES AND OBSTRUCTIONS

203.01 **Description** – Add the following to this subsection:

The locations of utility lines and appurtenances shown on plans were derived from field surveys, and record drawings. The locations of all underground utilities are approximate only. Notify all concerned utility agencies of planned clearing, excavation or other construction operations which may damage or adversely affect the permits or clearances from them prior to undertaking construction activities.

The exact locations of IT&E communication cables and lines are unknown. Although approximate locations are implied by cable markers and service boxes, it is the responsibility of the Contractor to coordinate with respective communication agency to field verify prior to undertaking excavation work.

In the event that utility lines are to be relocated or when utility lines that are presently in service not indicated in the plan are uncovered during excavation operations, notify the C.O. in ample time for necessary measures to be taken to prevent interruption of the service during the relocation or removal of the existing lines.

Inform, coordinate, and obtain required permits from the following agencies prior to execution of clearing and excavation.

Electrical Power System:	Commonwealth Utilities Corporation
Water System:	Commonwealth Utilities Corporation
Sewer System:	Commonwealth Utilities Corporation
Telephone:	IT&E
Cable TV System:	DOCOMO Pacific

203.04 **Removing Material** - The following is added to this subsection:

Unless otherwise approved by the C.O., do not remove culverts and other drainage structures that are in use until satisfactory arrangement had been made to accommodate traffic.

203.05 **Disposing of Material**

a) **Removed from Project** – Revise this Item to read as follows:

Haul debris to **Marpi Landfill**. When necessary, recycle or dispose of material legally off the project. Furnish a statement documenting the nature and quantity of material processed or sold for recycling. Otherwise, furnish a signed copy of the disposal agreement before disposal begins.

END OF SECTION 203

SECTION 204 - EXCAVATION AND EMBANKMENT

204.02 **Definitions.** - This subsection is amended as follows:

(a) **Excavation**

(1) **Roadway excavation.** The definition of this item shall include sub-excavation of material below sub-grade as shown on the plans. All sub-excavated material suitable for embankment may be reused.

204.06 **Roadway Excavation**

(a) **General.** - The following is added to this subsection:

Excavation: Where the on-site silty soils are exposed within the roadways and road shoulders it should be excavated to a depth of 2.0 feet below subgrade elevation, including at least 2 feet wider around the new pavement or at least 1 foot wider than the edges of new road shoulders, whichever applies and replaced with well compacted, non-expansive limestone sand/gravel fill of subbase quality meeting the requirements of Subsection 703.05.

The Contractor has the option to dispose of or reuse excavated asphaltic concrete pavement for embankment outside of the roadway structural component provided it is broken into sizes not greater than 4 inches in largest dimension and blended with fill material by windrowing or other methods approved by the Contracting officer. Excavated aggregate courses unsuitable to be incorporated in the proposed base course but can be utilized as embankment material shall be conserved use as fill material.

Re-compaction and proof rolling: After stripping and required excavation are completed, the exposed surface shall be scarified to a depth of approximately 6 to 8 inches, moisture conditioned as necessary and compacted with a heavy vibratory roller, until it is dense and unyielding with at least 95 percent of its maximum dry density (per ASTM D1557). The compacted surface should be relatively uniform, dense, and non-yielding.

Spot Repairs: Where the stripped or excavated ground surface is soft and yielding, and where soft and yielding spots are detected during the above re-compaction and proof rolling, the soft or yielding soils should be excavated entirely and replaced with limestone sand/gravel fill compacted to at least 95 percent of its maximum dry density. The Contracting Officer shall inspect, evaluate and determine the need for spot repairs and extent of excavation.

(b) **Rock Cuts** - This item is revised as follows:

Blasting is not permitted. Excavate rock cuts to 6 inches below subgrade within the roadbed limits. Backfill to subgrade with non-expansive limestone fill meeting the requirements of Subsection 704.10.

204.06(d) **Contractor's Responsibility Involving Archaeological Discovery (Added Subsection)**

In the event that items with archaeological value are discovered during excavation work involving cutting, filling, scarifying, utility relocation, bridge or drainage culvert work, etc., immediately notify the Commonwealth Historical Preservation Office (HPO) or the C.O. for verification and determination of the discovery.

Suspend excavation work in the suspected site until the State Historic Preservation Office gives the approval to resume work.

While waiting for the decision of HPO to resume work, continue operation outside the suspected site or data recovery site. Use light to moderate equipment approved by the C.O. or HPO.

When a Data Recovery Plan, that is in accordance with HPO Guidelines, is to be implemented, fully cooperate and coordinate all work with HPO. Take all precautionary measures as

recommended by the authorized Archaeologist to minimize any contamination of storm water runoff, silt, organic debris, fuels and other harmful materials that may disturb the strata or excavated portions that are being analyzed or recovered. Provide temporary measures to prevent spillage or direct entry into the pit or recovery area of the roadway necessary to accommodate public traffic at all times. Take every precaution against public injury or damage to the surrounding areas adjacent to the data recovery site.

No for compensation for delay will be considered resulting from any unforeseen archaeological site discovered during construction.

Time extension will be granted only and if the critical path of the construction schedule is affected by the discovery and/or data recovery implementation.

204.09 Preparing Foundation for Embankment Construction. - This subsection is revised as follows:

After stripping and required excavation are completed, the exposed surface shall be scarified to a depth of approximately 6 to 8 inches, moisture conditioned as necessary and compacted with a heavy vibratory roller, until it is dense and unyielding with at least 95 percent of its maximum dry density for cohesionless soils and 90 percent for cohesive soils (per ASTM D1577). The compacted surface shall be relatively uniform, dense, and non-yielding.

204.10 Embankment Construction. - This subsection is modified as follows:

All fill materials should be free of organic matter, debris and rock fragments or silt/clay lumps larger than 4 inches, or one-half the compacted layer thickness, in greatest dimension. The upper 24 inches of the roadway final subgrade should consist of non-expansive, select or subbase limestone sand and gravel meeting Subsection 703.05. On-site excavated silty sandy limestone gravel fill (existing road base/subbase) meeting the above requirements may be reused as select or subbase fill as well as general fill. On-site excavated silty or clay soils may be reused as general fill outside roadway and shoulder limits. Approved fill materials shall be placed in loose layers 10 inches or less, moisture conditioned as necessary and compacted to at least 90 percent maximum dry density for cohesive silt or clay soils and 95 percent for limestone fill including select or subbase fill.

204.14 Disposal of Unsuitable or Excess Material. - This subsection is amended as follows:

Dispose of unsuitable or excess material according to Subsection 203.05.

END OF SECTION 204

SECTION 209 - STRUCTURE EXCAVATION AND BACKFILL

209.01 DESCRIPTION - This subsection is supplemented as follows:

Structure excavation includes all materials encountered regardless of its nature or characteristics.

209.10d PATCHING EXISTING PAVEMENT AREAS - Revise this item to read as follows:

Restore affected paved areas according to the detail shown. When detail is not shown, construct the bottom portion of the disturbed pavement within the trench or excavation of approved crushed aggregate matching the grade of existing base course. Remove existing pavement extending 18 inches minimum beyond the neat line of trench or excavation and construct hot asphaltic concrete matching the thickness and finish surface of existing pavement.

209.13 MEASUREMENT AND PAYMENT - This subsection is supplemented as follows:

Unless otherwise shown or specified, excavation for pipe culverts, box culverts, wingwall, apron slab, headwalls/endwalls, drainage swales, catch basins/field inlets, retaining walls, concrete stair, and any other structures not mentioned here but shown in the drawings, including backfill and restoration of disturbed roadway, will not be measured for payment separately. It will be considered subsidiary obligation of the Contractor to complete the project.

END OF SECTION 209

SECTION 301 - UNTREATED AGGREGATE COURSES

301.01 **Description** – Revise the second sentence to read as follows:

Sub-base and base aggregate grading is designated as shown in Table 703-2(A) and 703-2(B).

301.09 **Measurement** - This subsection is supplemented as follows:

Measure base and sub-base courses as listed in the Bid Schedule.

END OF SECTION 301

SECTION 402 - HOT ASPHALT CONCRETE PAVEMENT BY HVEEM OR MARSHALL MIX DESIGN METHOD

CONSTRUCTION REQUIREMENTS

402.12 **PRODUCTION START UP PROCEDURES** - Revise the second paragraph of this subsection to read as follows:

After approval of the design mix, the Engineer may require the Contractor to produce sufficient mix to construct 150 ft. long control strip, one lane wide, and at the designated thickness before actual production and laying of asphaltic concrete pavement at no additional cost to the Government. Construct control strip on the project at an approved location. The Engineer will then evaluate the texture, workmanship, and applicable properties of the control strip.

402.13 **PLACING AND FINISHING** - The following are added to this subsection:

The tolerance of the temperature for the mixture leaving the mixer is $\pm 25^{\circ}\text{F}$.

The tolerance of the temperature for the mixture laid on the prepared base is $\pm 20^{\circ}\text{F}$.

402.16 **PAVEMENT SMOOTHNESS/ROUGHNESS** - This subsection is amended as follows:

After final rolling, measure the smoothness of the surface course or the surface immediately under the anti-skid pavement.

402.17 **ACCEPTANCE** - The following is added to this subsection:

e) Thickness - When measurement is on a square yard basis, the asphaltic concrete placed will be sampled on a statistical basis and tested to determine if pavement thickness conforms to the thickness specified in the contract. The allowable deviation from target value (nominal thickness specified) for pavement thickness shall be a minus 3/8 inch for pavement thickness more than 1 inch thickness, and a minus 1/8-inch for pavement thickness of 1 inch and less.

Coring, refilling sample holes with suitable material and compacting shall be performed by the Contractor under the supervision of the Engineer without cost to the Government.

END OF SECTION 402

SECTION 601 - MINOR CONCRETE STRUCTURES

601.02 Materials - The following are added to this subsection:

Non-Shrink Grout – Furnish approved commercial non-metallic, non-corrosive, non-shrinkage type with a yield of 0.90 cu. ft. per 100-pound bag. Deliver the product to the site in original sealed containers, each bearing the trade name and manufacturer's name. The grout shall have a compressive strength of 8,000 psi. Mix and apply grout in strict accordance with the manufacturer's printed instructions. Exposed surfaces shall be water cured with wet burlap for a minimum of 7 days. Perform measurement of non-shrink grout the field from the time the water is added and the mix is placed as shown in the plans.

Epoxy Binder – Furnish Type I epoxy binder shall be Type I, conforming to Federal Specifications MM-B-350.

Other Embedded Items – Place or install all sleeves, inserts, anchors and embedded items before concrete pouring as shown or specified. Furnish hot dipped galvanized after fabrication conforming to AASHTO M 111-80 or AASHTO M 232-82.

601.03 Concrete Composition - The requirements about the size of coarse aggregate and minimum 28-day compressive strength of concrete shown on Table 601-1 is revised as follows:

Classes of concrete to be used in each part of the structures shall be as specified herein. Before start of construction, the Contractor shall submit design mix of all concrete strength to be used for approval. The Contractor, at his own expense, shall have samples of mix designs prepared for the classes of concrete to be used in the work or furnish satisfactory evidence that specified mixes have been previously prepared and results obtained. Unless otherwise provided herein, specification ACI-211-1-74 shall be used in proportioning the mix. Bid prices for concrete shall be based on the proposed mix including any use of admixture, if permitted. The design mix, including certified test reports for all materials to be incorporated to the mix and the results of the 7-day and 28-day compressive strength test shall be submitted for approval at least 30 days before furnishing of concrete.

The class of concrete to be used on this project is listed below and shall have the corresponding 28-day compressive strength and maximum aggregate size.

Strength (psi)	Max. Agg. Size	Max. Slump	Placement
5,000	0.75"	2"	Box Culverts (Walls and Slab)
4,000	0.75"	2"	Wingwalls, headwalls, endwalls, retaining walls, manholes, handholes, splash aprons, and other reinforced concrete structures, including Pre-Cast Concrete
3,000	1.5"	3"	Concrete stairs, walkways, and other slab on grade.

Add the following to this subsection:

Use of admixture will be at the Contractor's option subject to the approval of the C.O. Before use of admixture, the mix design with certified test reports shall be submitted to the C.O. for approval.

CONSTRUCTION REQUIREMENTS

601.04 **General** - The following is added to this subsection:

- a. Setting Miscellaneous Material - Anchors, frames or edging, pipe sleeves, pipes passing through walls, metal ties, conduits, drain and other materials concerning concrete construction shall, where practicable, be placed and secured in position when the concrete is placed.
- b. Reinforcing Steel - Shall be provided as indicated. Any placement or movement after placement other than indicated or specified shall be subject to approval.
- c. Bonding and Grouting - Before depositing new concrete against old concrete or concrete that has set, the existing surface shall be roughened and immediately before placing the new concrete, the old surface shall be hosed down with water and thoroughly cleaned, using compressed air. All laitance, coatings, stains, debris and other foreign material shall be removed from the surface, and the surface shall be coated with epoxy binder, Type I, conforming to Specification MMM-B-350 immediately before the new concrete is deposited.
- d. Mortar for Patching - Cement mortar for patching shall conform to the requirement of these specifications. Cement mortar shall be applied with putty knife while the prime-coat is still soft or tacky. The repairing materials shall be applied flush with the adjacent surfaces.
- e. Finishing Concrete Surfaces - The following shall be exercised in finishing concrete surface.
 1. Rubbed Finish - Unless otherwise specified all exposed concrete surfaces specified.
 2. All Exposed Corner - Shall be chamfered 3/4 inch except otherwise noted.
 3. Repair of Defects on Concrete - All defects consisting of cracks, spalls, voids, cleavages, holes, honeycombed areas and all other defects that occur during the one-year guarantee period shall be repaired as herein specified. Except otherwise specified, the repairing material shall be two-component, mineral-filled, epoxy-resin-base, grout conforming to Specification MMM-G-650, Type I, Grade C, or repaired with a two-component, epoxy-resin-base material conforming to Specification MMM-B-350, Type I, mixed with fine aggregate.
 4. Design Mix for Repairing Materials - The two-component mineral filled, epoxy-resin-base grout shall be mixed without adding any aggregate in strict accordance with the manufacturer's printed instructions. Epoxy mortar shall consist of a two-component, epoxy-resin-base binder material mixed with dry silica sand or stone aggregate in proportions strictly recommended by the manufacturer. The Contractor shall mix trial batches on the job in the presence of the C.O. in strict accordance with the manufacturer's printed instructions that will insure that the proportions of materials will be controlled and accurately maintained during the progress of the repair work. Mortar materials shall be mixed in proportions by volume as recommended. The epoxy-resin-base binder adhesive and the aggregate shall be introduced and mixed in such a manner the materials will be distributed uniformly throughout the mass. Boxes and pans for mixing shall be kept clean and free of debris or dried mortar. Once the components of the epoxy mortar are mixed, the compounds shall be used before the initial setting of the binder has taken place.
 5. Preparation of Surfaces - All concrete surfaces to be repaired shall be dry, free of grease, oil, dirt, and deficiency in the strength of the concrete produced. Additional tests at the contractors expense shall be made and adjust mixes as required to obtain the specified strength.

6. Method of Application - Following the preparation and cleaning concrete surfaces to be repaired, the repairing material of the design mix as recommended by the manufacturer shall be applied.

Thin Hairline Cracks - Thin hairline cracks not measurable by ordinary means (0.01 inch and under) shall be sealed with epoxy grout. The repairing material of the design mix as recommended by the manufacturer shall be applied.

Large Cracks and Voids - Large cracks and voids shall be square cut, cleaned and primed with pure epoxy-resin binder adhesive to insure a weld bond, after which the epoxy mortar shall be applied with a trowel or putty knife flush with the adjoining surface.

Deep Cracks or Cleavages - Where the size of the openings permit, the crack shall be filled with epoxy grout, allowed to harden, then surface-coated with epoxy mortar. To rejoin narrow voids at maximum depth, the cracked surface shall be sealed with epoxy grout and allowed to harden; then, through this sealed surface, holes large enough to permit insertion of caulking gun tips shall be drilled and epoxy grout without aggregate shall be pumped into the void with the caulking gun. The sealed surface will prevent the outflow of the epoxy grout and force it into the fissure, providing a weld-joint of maximum strength.

Spalls - Defects caused by spalls shall be repaired by providing with a prime coating of pure epoxy binder and then filled with epoxy mortar (with aggregate) by means of steel trowel or as specified for non-shrink grouting of mortar. Surfaces to receive non-shrink grouting mortar shall be thoroughly clean.

601.08 Measurement – Add the following to this subsection:

Unless stipulated in the contract, concrete used in other sections will not be measured for direct payment. Foundation, excavation, structural fill, compaction, testing, formwork, reinforcements and concrete placement will not be paid separately but will be included as incidental to the concrete works.

Measure Fanhang and Nanasu reinforced concrete box culverts and other related improvements per lump sum. Other culverts as listed in the Bid Schedule.

Measure concrete stair per linear feet, including landings, metal handrails, walkway, grouted riprap embankment, and other ancillary components, as shown on the Plans.

END OF SECTION 601

SECTION 602 - CULVERTS AND DRAINS

CONSTRUCTION REQUIREMENTS

602.03 **General** – Add the following to this subsection:

Furnish and place bedding material as shown on the plans.

602.09 **Measurement** – Revise the second sentence to read as follows:

Measure the pipe culverts, complete in place, by the linear foot along the invert including fittings, excavation, bedding, backfilling, and other necessary incidental works.

END OF SECTION 602

SECTION 604 - MANHOLES, INLETS AND CATCH BASINS

604.06 **Metal Construction** – Add the following to this subsection:

Before fabrication of frames, grates and covers, and ladder rungs, submit shop drawings for approval of the C.O.

In the event minor adjustment becomes necessary, the Contractor may do so if approved by the C.O. Galvanized portion affected by the repair shall be thoroughly clean, prime, and apply two coats of Zinc Oxide paint on galvanized portions affected by the repair.

604.09 **Measurement** – Revise the second sentence of this Subsection to read as follows:

Catch basins, Inlets, manholes new or adjusted, will be measured by the each including excavation, backfill, frames, covers, gratings and any other incidentals.

END OF SECTION 604

SECTION 608 – PAVED WATERWAYS

608.11.1 MEASUREMENT: The following is added to this sub-section:

Paved waterways shall be measured under Paved Waterway (V-Shaped, Trapezoidal Shaped, and Rectangular Shaped) ditches by the linear feet and Type, as shown in the drawing and listed in the bid schedule.

608.12 PAYMENT: The following is added to this sub-section.

Payment for Paved waterway (V-Shaped, Trapezoidal Shaped, Rectangular Shaped) ditches and valley gutter shall be by the linear feet, complete in place, as shown in the drawing and listed in the bid schedule.

Excavation and forming of these improvements shall not be paid separately but considered incidental to complete the work.

END OF SECTION 608

Section 617 - GUARDRAIL

Description

617.01 Delete the text of this sub-section and substitute the following

This work shall consist of the construction of metal guardrail in accordance with these specifications and in reasonably close conformity with the lines and grades as shown on the plans or as established by the Contracting Officer. The guard rail system is G4, Blocked-out, "W" Beam, standard barrier guard rail, having steel posts and the use of new plastic blocks, designed for use with guardrails, and having a sequential type terminal end system.

The construction of this system shall include the assembly and erection of all components parts and materials complete at the locations shown on the plans or as directed.

Details for the sequential type kinking terminal system and components shall be as per manufacturer's shop drawings, detailing the items indicated on the plans.

Material

617.02 Delete the text of this sub-section and substitute the following:

- (a) **Concrete.** Concrete and materials for concrete work shall conform to Section 601.
- (b) **Galvanized Steel Rail.** Steel rail elements shall be corrugated sheet steel beams for highway guardrail conforming to the requirements of AASHTO M 180 for the W-Beam shape indicated on the plans. Corrugate sheet steel beam shall be Class B with metal thickness of 0.135 inches, and Type I zinc coating of 1.80 ounces per square feet.
- (c) **Guardrail Line Post.** Guardrail line post, other than that required for the sequential type kinking system, shall be W6x9 galvanized steel posts conforming to AASHTO-AGC-ARTBA, "A Guide to Standardized Highway Barrier Hardware", 1995 Edition, Zinc coating shall be 1.80 ounces per square feet.
- (d) **Guardrail Block.** New or recycled plastic block from approved manufacturers for use on highway guardrails as accepted by the Federal Highway Administration meeting the test requirements of NCHRP Report 350, and the Department of Public Works, Commonwealth of the Northern Mariana Islands.
- (e) **Guardrail Hardware.** Guardrail hardware to conform to the AASHTO-AGC-ARTBA, A Guide to Standardized Highway Barrier Hardware, 1995 Edition.
- (f) **Reflector Tabs.** Galvanized steel sheet, 0.15 inch thick. Adhesive shall resist peeling from a minimum force of 5 pounds per inch of width. Use mildew resistant adhesive, which has no staining effect on the retroreflective sheeting.
- (g) **Wire Cable.** Cable to be galvanized with zinc coating of 1.80 ounces per square feet and shall conform to AASHTO M30.
- (h) **Sequential Type Kinking Terminal End System.** The system shall be the ET 2000 Plus, consisting of breakaway end and line posts, a BCT cable assembly, impact head assembly, soil tubes, bolts, nuts, washers, and other required appurtenances for a complete assembly. The ET 2000 Plus system shall be from an approved manufacturer whose system has met the test requirements of NCHRP report 350 and is accepted by the Federal Highway Administration.

Construction Requirements

Add the following text:

Construction shall conform to the requirements specified herein and to the latest edition of the Standards or directives issued by the **Secretary, Department of Public Works Commonwealth of the Northern Mariana Islands**.

617.03 Posts. Add the following text:

- (a) Typical line posts (non-breakaway type) shall be set plumb in hand or mechanically dug holes, and held securely in place while casting the concrete foundation. Post excavated holes shall be backfilled with acceptable material, placed in layers, and thoroughly compacted. When it is necessary to cut post holes in existing paving, all loose material shall be removed and the paving replaced in kind.
- (b) **Breakaway End and Line Posts.** Install as specified by the manufacturer of the sequential type terminal system, ET 2000 Plus.

617.04 Rail Elements. Add the following text:

- (a) **Steel Rail.** Rail elements shall be erected according to plan details and in a manner resulting in a smooth, continuous installation with laps in the direction of traffic flow. All bolts, except adjustment bolts, shall be drawn tight. Bolts shall be sufficient length to extend beyond the nuts by more than one inch

Where painting of railing components is specified, any damage to the shop coat of paint shall be corrected by an application of an approved rust-inhibitive primer prior to other painting. Non-galvanized surfaces inaccessible to painting after erection shall be field painted before erection. The railing components shall be given the specified number of coats of paint uniformly applied by through or by approved pressure spray specified.

Galvanized surfaces, which have been abraded so that the base metal is exposed, threaded portions of all fitting and fasteners and cut ends of bolts shall be painted with two coats of zinc-dust, zinc-oxide paint conforming with Federal Specification TT-P-641,

617.05 Terminal Sections. Add the following text to this subsection:

Construct terminal sections at the locations shown. The terminal section shall be the ET 2000 Plus system consisting of breakaway end line posts, railing, cable anchorage assembly, soil tube anchors, impact head unit, and required hardware. The ET 2000 Plus system shall be from an approved manufacturer whose system has met the NCHRP report 350 test requirements and has been accepted by the Federal Highway Administration. Contractor shall install this system according to the manufacturer's requirements.

617.09 Acceptance. Add the following:

Guardrail material will be evaluated under Subsections 106.02 and 106.03.

Guardrail system construction will be evaluated under Subsections 106.02 and 106.04.

Measurement

617.10 Delete the text of this subsection and substitute the following:

- (a) G4, W-Beam guard rail will be measured by the linear foot from center of end posts not including the ET 2000 Plus terminal system. Double faced rail attached to the same post will be measured as a single unit.
- (b) Measure the end terminal section set ET 2000 Plus, for G4, W-Beam Guardrail, by the each for the length indicated on the plans.
- (c) Measure the connection to structure, including the G4 W-Beam Guardrail transition with steel bolts and plastic blocks from the end of ET 2000 Plus to the Jersey Barrier, by the each, for the length indicated on the plans.
- (d) Measure reinforced concrete transition, by each for the length indicated on the plans.
- (e) End anchorages are to be included in the quantities for the guardrail system for their respective type and it will not be measured separately for payment.
- (f) Concrete and related work are to be included in the quantities for the guard rail system and it will not be measured and paid for separately. It will be considered a subsidiary obligation of the Contractor.
- (g) Excavation and Backfill per Section 209 are to be included in the quantities for the guard rail system and it will not be measured and paid for separately. It will be considered a subsidiary obligation of the Contractor.

Payment

617.11 Delete the pay item and substitute the following:

Payment will be made under Pay Items listed in the Bid Schedule.

END OF SECTION 617

Section 619 - FENCES, GATES, AND CATTLE GUARDS

619.01 DESCRIPTION - This subsection is amended to include relocation of existing fence affected by the project.

619.09 MEASUREMENT - The following is added to this subsection:

Measure relocated fence as shown in drawings, including fittings and foundations or footings to complete the work.

END OF SECTION 619

SECTION 624 - TOP SOIL

Construction Requirements

624.04 **PLACING TOP SOIL** – Add the following to this Subsection:

Spread and lightly compact the top soil on areas to receive turf establishment described in Section 625 to a minimum depth of 4 inches.

Measurement

624.06 Do not measure for payment placing and spreading of top soil. It will be considered incidental to the completion of Section 625 – Turf Establishment

END OF SECTION 624

SECTION 625 - TURF ESTABLISHMENT

625.01 **DESCRIPTION** – Add the following to this Subsection:

This work also includes spreading of conserved topsoil as specified in Subsection 204.05 to areas where topsoil is required or as directed by the C.O.

625.02 **MATERIALS** – Add the following to this section:

SEED – Furnish "Common Bermuda Grass" seed meeting the following composition:

Minimum percent pure seed	98%
Minimum percent germination and Hard Seed	85%
Maximum percent weed seed	2%

PESTICIDES – Furnish soil fumigant herbicide insecticide and fungicide approved by EPA or BECQ for pre-emergence and post emergence application for crab-grass control and weed control. Deliver pesticide to the site in original, unopened containers with legible label indicating EPA registration number and manufacturer's registered uses.

SOIL CONDITIONERS – Furnish non-toxic to plants and approved by EPA or BECQ.

CONSTRUCTION REQUIREMENTS

625.04 **PREPARING SEED BED** – Add the following to this Subsection:

TOP SOILING – Spread topsoil with a minimum thickness of 4 inches at locations of raised medians and area outside the prepared aggregate-top soiled shoulder extending up to the limit of work before seeding. Use conserved topsoil as specified in Subsection 204.05.

625.07 **SEEDING** - Add the following to Dry Method of this subsection:

Hand operated seeding method maybe used on areas inaccessible to mechanical equipment. Lightly compact seeded areas with an approve equipment within 24 hours after seeding is completed.

625.11 **MEASUREMENT** – Add the following to this Subsection:

Do not measure furnishing and placing or placing of conserved topsoil. It will be considered incidental to the completion of the work under this Section.

END OF SECTION 625

SECTION 633 - PERMANENT TRAFFIC CONTROL

633.01 **Description** – Revise the last three sentences to read as follows:

Posts are designated as steel having cross sectional size as shown in the plans. Wood posts may be used for temporary basis when approved by the C.O.

633.08 **Measurement** - Revise the first sentence of this subsection and substitute the following:

Measure sign installations including supports as furnished, completed, and accepted according to the following types.

Type I - Signs with single support and no more than two panels.

Type II - Signs with one or two supports and multiple panels.

A sign installation consists of the support structure, one or more panels, and all hardware, footings, and other incidentals that are required to complete the installation as shown on the plans or as directed by the Contracting Officer.

Measure existing signs specified to be relocated and set at new location as shown on the plans or as directed by the Contracting Officer. Do not measure removal, excavation, footing, backfill and other incidentals to complete the work.

END OF SECTION 633

SECTION 634. – PERMANENT PAVEMENT MARKINGS

634.01 – Add the following to this subsection:

Raised pavement markers are designated as follows:

Type “CR”- - - -“Clear & Red” reflective markers

Type “YY” - - - -Two-way “Yellow” reflective markers

Type “Y” - - - - One-way “Yellow” reflective markers

Type “AY” - - - -One-way “Yellow” non-reflective markers

Material

634.02 - The following is added to this subsection:

- 1.) **Non-Reflective Raised Pavement Markers.** Non-reflective raised pavement markers shall be Class III, ceramic type, for use on rigid and flexible pavements. Class III pavement markers shall consist of heat-fired vitreous, ceramic base and heat-fired, opaque, glazed surface to produce the properties required. The glazed surface shall not be present on the bottom of the marker which will be cemented to the road surface. The markers shall be produced from any suitable combination of initially mixed clay, shales, tale flints, or other organic material which will meet the properties herein required. The markers shall be thoroughly and evenly matured and free from defects which will affect the appearance or serviceability.

The top surface of the markers shall be convex with depth of approximately 0.75 inch. The top and sides shall be smooth and free of mold marks, pits, indentations, air bubbles, and other imperfections.

- 2.) **Non-plowable, extended life, retroreflective Pavement Markers** Retroreflective raised pavement markers shall be the non-plowable type and shall be nominal 4 inches by 4 inches or nominal 3.5 inches by 4 inches.

Retroreflective raised pavement markers shall be non-plowable prismatic reflector type consisting of a methyl methacrylate or suitably compounded acrylonitrile-butadiene-styrene (ABS) shell, filled with a mixture of inert thermosetting compound and filler material. The exterior surface of the shell shall be smooth and contain one or two retroreflective faces of the color specified.

Markers shall have retroreflective lens containing no voids or air space. Back of lens shall be metallized.

Shell of methyl methacrylate shall be molded in accordance with Federal Specification L-P-380C, Type I, Class 3. Mold shall provide mechanical interlock between thermosetting compound and shell. Thermosetting compound shall bond directly to backside of metallized lens surface.

Base of marker shall be flat (deviation from flat surface shall not exceed 0.05 inch), rough textured, and free from gloss or substances that may reduce its bond to adhesive. Presence of soft or resin-rich film on surface of base will be cause for rejection.

Unless otherwise specified, retroreflective markers shall conform to the following requirements when tested in accordance with California Test 669:

(1) Retroreflectance

RETROREFLECTANCE TEST (AFTER STEEL WOOL ABRASION PROCEDURE)			
Incidence Angle	Specific Intensity		
	Clear	Yellow	Red
0	3.0	1.5	0.75
20	1.2	0.60	0.30
After one-year field evaluation	0.30	0.15	0.08

- (2) **Color.** Color of retroreflectors, when illuminated by white light from sealed-beam automobile headlight as defined by SAE Standard J578, shall be an accepted clear, yellow, red, or blue color, as designated. Off-color reflection shall constitute grounds for rejection. Daylight color of marker body shall be compatible with color of primary lens and shall be subject to acceptance by the Engineer. Off-color reflectors shall constitute grounds for rejection.
- (3) **Adhesive Bond Strength** (to bottom surface of markers) shall be a minimum of 500 psi.
- (4) **Strength** shall be 2,000 lb minimum.
- (5) **Water Soak Resistance:** No delamination of the body or lens system of the marker nor loss of reflectance.

Failure of the marker's body or filler material before reaching 500 psi in the bond strength test shall also constitute a failing Adhesive Bond Strength Test.

Deformation of the marker of more than 0.125 inch at a load of less than 2000 lb or delamination of the shell and the filler material of more than 0.125 inch regardless of the load required to break the marker shall be cause for rejection of the marker.

The following materials are prequalified for use on this project:

PAVEMENT MARKERS, PERMANENT TYPE

Retroreflective with Abrasion Resistance Surface (ARS)

1. Apex, Model 921AR (4" x 4")
2. Ennis Paint, Models C88 (4" x 4"), 911 (4" x 4"), and C80FH
3. Ray-O-Lite, Models "AA" ARS (4" x 4") and ARC Round Shoulder (4" x 4")
4. 3M Series 290 (3.5" x 4")
5. 3M Series 290 PSA
6. Glowlite, Inc Model 988AR (4" x 4")

Furnish Certificate of Compliance executed by the manufacturers of the markers attesting that they conform to these specifications.

Construction Requirements

634.03 General. – This subsection is revised as follows:

Add the following to the fifth paragraph of this subsection:

Arrows, letters, stop lines and other pre-cut symbols shall be as shown on the drawings or as directed by the Project Engineer.

Delete the sixth paragraph of this subsection and substitute the following:

Stripes shall be four (4) inches wide unless otherwise shown on the drawings. Broken line segments (dashed or skip traffic type) shall be as shown on the drawings or as directed by the Project Engineer.

Measurement

634.13 – Revise the second paragraph of this subsection to read as follows:

Pavement markings for lines will be measured by the linear foot along the centerline of the marking regardless of color. Broken, dashed or dotted pavement lines will be measured from end to end of the line excluding gaps. Pavement markings for symbols and raised pavement markers will be measured per each.

END OF SECTION 634

SECTION 635 - TEMPORARY TRAFFIC CONTROL

CONSTRUCTION REQUIREMENTS

635.13 Temporary Pavement Markings - This subsection is amended to read:

Perform work according to the latest Edition of MUTCD Part VI. Temporary pavement markings may be preformed retroreflective tape, flexible plastic body, or temporary raised pavement markers. Temporary pavement markings shall be neat in appearance, free of cracks, true on the edges, straight, and unbroken.

For centerline marking on two-way roadways, use single line of 3 feet long yellow temporary markers spaced at 10 feet or closer as directed by the Contracting Officer.

For roadways separating two or more lanes of traffic moving in the same direction, use single line of 3 feet long white temporary markers spaced at 10 feet or closer as directed by the Contracting Officer. Place marking parallel to the centerline and neat in appearance.

For centerline marking on multilane undivided roadways with no passing in either direction, use double line of 3 feet long yellow temporary markers spaced at 10 feet or closer as directed by the Contracting Officer. Place marking parallel to one another approximately 4 inches apart.

Place temporary marking on each lift of pavement before opening to public traffic. On asphaltic concrete pavement overlays, place markings as soon as practical after a lift has been placed. As minimum, place pavement marking the same day the asphaltic concrete overlay is placed on those roadways where traffic is to be routed. Remove all temporary pavement markings on the final surface course shall prior to placing permanent marking.

Remove temporary pavement markings according to manufacturer's recommendation. Use of sand blasting, grinding and other methods that will stain and damage the surface of the final pavement will not be permitted.

END OF SECTION 635

SECTION 637 - FACILITIES AND SERVICES

637.01 Amend this section to read as follows:

This work also consists of furnishing a computer meeting the minimum requirements or beyond as stated below. The computer set shall be used by the engineer on the project and will be turned over to the Department of Public Works upon completion of the project.

637.03(a) Field Office: This sub-section is amended as follows:

Furnish and maintain a field office according to Tables 637-1. The contractor shall also provide telephone for local services and High Speed Internet with both Ethernet and Wireless Connections.

The proposed site for the field office will be within 1 mile of the project limits. The site shall be coordinated with and approved by the Project Engineer.

**TABLE 637-1
MINIMUM REQUIREMENTS FOR FIELD OFFICE FACILITIES**

FIELD OFFICE	REQUIREMENT
Floor Space	40 foot insulated high cube container with 7 ft. min. ceiling height
Door	Locking Outside Door with dead bolt and keys
Entrance	A landing of minimum 3 feet x 3 feet dimension shall be provided at each doorway with integral slip-proof steps and railings.
Windows	Provide a minimum of 2 with dead bolt locks.
Minimum window area	32 square feet
Rooms	Provide 2 rooms with a minimum area of 96 square feet each
Shelves	Provide four 12" deep shelves 6 feet long, or equivalent
Parking	Parking for 3 vehicles on gravel surface
Portable rest room	Provide 2 portable toilets meeting Federal and local health department requirements
Air Conditioning	Maintain temperature of 72 ± Degree F.
Drinking Water	Provide one electric water cooler dispenser and water.
Electrical	Provide adequate electrical supply and surge protectors in accordance with local codes
Potable Water	Provide adequate supply
Security	Provide 6 foot high chain link fence and gate around building

In addition, the following equipment and furniture meeting the approval of the Project engineer shall be furnished:

- (1) Two desks with minimum working surface 60 in. x 30 in. and two non-folding chairs with upholstered seat and back.
- (2) One file cabinet, letter size, four drawers.

- (3) One four post drafting table with minimum top size of 37 ½ in. x 48 in. The top shall be basswood or equivalent and capable of being tilted through an angle of 50 degrees. An adjustable height drafting stool with upholstered seat and back shall also be provided.
- (4) One equipment cabinet of minimum inside dimension of 44 in. high x 24 in. wide x 30 in. deep with lock. The walls shall be of steel with a 3/32 in. a minimum thickness with concealed hinges and enclosed lock constructed to prevent entry by force. The cabinet assembly shall be permanently attached to a structural element of the field office to prevent theft of the entire cabinet.
- (5) Plan holder (D size plan), hanging type with minimum 4 plan capacity with 4 plan carrier hangers
- (6) One telephone, with touch tone, and a digital telephone answering machine, for exclusive use by the Project Engineer. Two additional separate telephone lines without telephones, shall be provided for the exclusive use of the Project Engineer.
- (7) One electric desk type calculator and one adding machine with tape or one tape printing calculator.
- (8) One fax machine with paper.
- (9) One first-aid cabinet.
- (10) One fire extinguisher
- (11) One Computer system with the following specifications:

Hardware:

Intel® Core i7 Processor. System board will include onboard Integrated 5.1 Channel Audio, 10/100/1000 Ethernet LAN, Bluetooth, and wireless LAN (802.11b/g/n)

PC Memory 16GB DDR3 SDRAM	Single Drive: DVD±RW/CD-RW
800GB 7200RPM SATA hard drive	ATI EXPERT 64MB AGP VIDEO
CASE MID TOWER 300W	22" LCD MONITOR
4 USB PORTS	WHEEL MOUSE
KEYBOARD	STEREO SPEAKERS

Software:

Operating System: Windows 8 or Latest Version

Program: Microsoft Office Basic

Norton Internet Security™ (up to 3 year subscription)

NOTE: (All software disks must be provided.)

637.05 Measurement - This subsection is modified as follows:

Measure field office by the Lump Sum including computer system, hardware and software, portable communication system and other items and/or equipment as specified under Subsection 637.03(a).

END OF SECTION 637

SECTION 701 - HYDRAULIC CEMENT

701.01 Hydraulic Cement: - Revise Item (a) of this subsection as follows:

- (a) **Portland Cement:** Conform to AASHTO 85, Type 1, II, or V. Portland Cement conforming to JIS (Japanese Industrial Standards) R 5210 may be substituted for AASHTO M85, Type I or II.

701.02 Masonry and Mortar Cement: Revise item (a) of this subsection as follows:

- (a) **Masonry Cement:** Cement shall be Portland Cement Type conforming to ASSHTO M85, Type I II, or V. Portland Cement conforming to JIS (Japanese Industrial Standards) R 5210 may be substituted for AASHTO M85, Type I or II.

END OF SECTION 701

SECTION 703 - AGGREGATE

703.01 **Fine Aggregate for Concrete** - Revise the first paragraph to read as follows:

Manufactured sand from one source having specific gravity of not less than 2.40 when Saturated Surface Dry (SSD). Gradation conforming to AASHTO M 6 except limit the material passing the No 200 sieve to 3%.

703.02 **Coarse Aggregate for Concrete** - This subsection is amended as follows:

Coarse aggregate derived from one source having specific gravity of not less than 2.40 when saturated surface dry (SSD) and Los Angeles Abrasion of not greater than 40. Free from injurious amount of organic impurities or any substance that may cause harmful reaction with the alkalis in the cement and excessive expansion of the concrete.

The recommended coarse aggregate gradations are as follows:

Sieve Size	Percentage Passing		
	Maximum Size Aggregate (Inch)		
	0.75	1.0	1.5
2 in.	---	---	100
1½ in.	---	100	95-100
1 in.	100	95-100	---
¾ in.	90-100	---	35-70
½ in.	---	25-60	60
⅜ in.	20-55	---	10-30
No. 4	0-10	0-10	0-5
No. 8	0-5	0-5	---

703.04 **Permeable Backfill** – This Subsection is supplemented to include coralline and manufactured sand.

703.05 **Subbase, Base, and Surface Course Aggregate:**

(a) **General** - This item is supplemented to include crushed coralline limestone.

(b) **Subbase or Base Aggregate** – Add the following to this Item:

For Subbase - Natural uncemented coral in place or pit run coral meeting the above requirements are satisfactory for use.

R-Value	Not less than 50
Plasticity Index	Not more than 6%
Liquid Limit	Not more than 25%
California Bearing Ratio	Not less than 30
Maximum Dry Density	Not less than 122 lbs/cu.ft.

For Base Aggregate:

R-Value	Not less than 78
Maximum Dry Density	Not less than 130 lbs/cu.ft.

Replace Table 703-2 with Table 703-2(A) and Table 703-2(B):

Table 703-2A
Gradation Target Value Ranges for Subbase
Grading Designation "A"

Sieve Size	Percentage by Weight Passing Designated Sieve (AASHTO T 27 and T 11)
4 in.	100
2½ in.	90-100
No. 4	40-90
No. 200	3-25

Table 703-2B
Gradation Target Value Ranges for Base
Grading Designation "B"

Sieve Size	Percentage by Weight Passing Designated Sieve (AASHTO T 27 and T 11)
	Grading Designation "B"
2½ in.	100
2 in.	97-100
1 in.	65-79(6)
½ in.	45-59 (7)
No. 4	28-42(6)
No. 40	9-17(4)
No. 200	4-8(3)

END OF SECTION 703

SECTION 706 CONCRETE AND PLASTIC PIPE

706.02 **REINFORCED CONCRETE PIPE** – Add the following to this Subsection:

Reinforced concrete pipe shall be manufactured meeting the design requirements for Class IV Reinforced Concrete Pipe, with D-2000 loading and wall Type B as shown on Table 4, AASHTO M 170.

END OF SECTION 706

SECTION 709 - REINFORCING STEEL AND WIRE ROPE

709.01 **REINFORCING STEEL:** Delete this subsection and substitute the following:

Reinforcing steel shall have minimum yield strength of 60,000 psi and shall conform to AASHTO M 31. See Section 554, Reinforcing Steel.

END OF SECTION 709

SECTION 710 - FENCE AND GUARDRAIL

710.03 **Chain Link Fence** – Add the following to this Subsection:

Furnish Gage 11 having 2-inches mesh chain link fence material. All metal to be used in chain link fence shall be manufactured from metal Type I, Class D.

END OF SECTION 710

SECTION 711 - CONCRETE CURING MATERIALS AND ADMIXTURES

711.05 PAYMENT - Added subsection:

Concrete curing and material will not be measured and paid directly but will be considered incidental works to other sections.

END OF SECTION 711

SECTION 712 - JOINT MATERIAL

712.01 JOINT FILLERS AND SEALANTS: Delete this subsection and substitute the following:

Joint sealing material poured in place shall conform to AASHTO M 213-81 for bituminous types and AASHTO M 153-70 for rubber types.

712.07 RUBBER (ELASTOMERIC) WATER STOPS: Delete this subsection and substitute the following:

Elastomeric Water Stops shall be natural rubber, synthetic rubber neoprene, polyvinyl or similar materials and shall be resistant to chemical action with cement and/or admixtures. They shall show no effect when immersed for ten (10) days in a 10 percent solution of sulfuric or hydrochloric acids saturated lime solution or salt water. They shall be dense, homogeneous, and free from porosity and other imperfections.

END OF SECTION 712

SECTION 713 - ROADSIDE IMPROVEMENT MATERIAL

713.03 **Fertilizer** – Add the following to this Subsection:

Furnish nitrogen-phosphorus-potassium ratio of 16-7-12 plus 2 percent iron, composed of pills coated with plastic resin to provide continuous release of fertilizer for at least 6 months.

713.04 **Seed** - The following is added to this subsection:

Unless otherwise specified, furnish “Common Bermuda Grass” seed meeting the following composition:

Min. Percent Pure Seed	98%
Min. Percent Germination and Hard Seed	2%

Do not use seeds that are wet, moldy or damaged. Perform field mix in the presence of the C.O.

END OF SECTION 713

SECTION 718 - TRAFFIC SIGNING AND MARKING MATERIAL

718.08 SIGNPOSTS

b) STEEL POSTS - The following is added to this item:

Size and shape of steel post to be used in permanent sign shall be as indicated on the drawings.

718.21 TEMPORARY PAVEMENT MARKINGS - Add the following to this Subsection:

c) Flexible Plastic Body. Consist of plastic body with prismatic retro-reflective sheeting bonded to one or two vertical surfaces to reflect incident from single or opposite directions, 4 inch wide by 2 inch high by 1 inch deep, and white or yellow depending on its purpose. Adhesive laminated to the bottom surface of the body of the marker to provide bonding to the pavement.

END OF SECTION 718

SECTION 725 - MISCELLANEOUS MATERIAL

725.12 **Frames, Grates, Covers, and Ladder Rungs** – Add the following to this subsection:

All new frames, grates, covers, and ladder rung shall be hot dipped galvanized conforming to AASHTO M 11.

725.21 **Epoxy Resin Adhesive** - Add the following to this subsection:

A. Epoxy Binder – Furnish Type I conforming to Federal Specifications MM B 350.

Add the following to this Section:

725.27 **Other Embedded Items** - Unless otherwise noted, sleeves, inserts, anchors, and other embedded ferrous material in concrete that are exposed to weather shall be hot dipped galvanized after fabrication conforming to AASHTO M 111 or AASHTO M 232.

END OF SECTION 725