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101.100-WORK ORDER:

A written order, signed by the Engineer, requiring certain performance by the Contractor without negotiation. Such order shall not change quantities of major items beyond the 25 percent limitations, shall not create new items, nor make revisions to item prices.

101.101-INTERPRETATIONS:

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

SECTION 102

BIDDING REQUIREMENTS AND CONDITIONS

102.1-PREQUALIFICATION OF BIDDERS:

All bidders on projects let to contract by the Division shall be prequalified as provided for by rules or regulations, or both, of the Commissioner. A Certificate of Qualification will be issued by the Commissioner fixing the amount of incomplete work a Contractor may have under contract at any one time and the type of work for which the Contractor is qualified.

To obtain a Certificate of Qualification, the Contractor must file a "Contractor's Prequalification Statement" containing the information as required based on the category of work for which prequalification is being requested.

Application for qualification will be accepted by the Commissioner until 15 calendar days prior to the date set for receiving bids on projects on which the applicant may wish to submit a Proposal. Award of a certificate may be held in abeyance until such time as the Commissioner is able to verify all references and be satisfied as to the applicant's qualifications.

No Contractor will be issued a Certificate of Qualification until the Division has had adequate time to review and verify the adequacy of the information provided in the "Contractor's Prequalification Statement".

102.2-CONTENTS OF PROPOSAL FORMS:

The proposal forms will show the location and description of the proposed work, the approximate estimates of the various quantities of work to be performed for materials to be furnished, the amount of the proposal guaranty, the number of working days or date on which the work is to be completed, and the date, time and place of opening of proposals. The form will also include any special provisions or requirements not contained in the Standard

Specifications. All papers bound with or attached to the proposal form are considered a part thereof and must not be detached or altered.

The Plans, Specifications, and other documents designated in the proposal form are considered a part of the proposal form whether attached or not attached.

Upon request, the Division will furnish prequalified bidders or their authorized representatives with proposal forms. Proposals issued for informational purposes, available to all interested parties, will be marked "Not Valid for Bidding Purposes" and will not be accepted as a bid from any company.

102.3-ISSUANCE OF PROPOSAL FORMS:

Proposal forms, on which the name of the bidder is to be typed or written in ink before issuance, will be issued to Prequalified Contractors only or to their authorized representatives, or to Contractors who have filed on a Division standard form an application for prequalification 15 calendar days prior to the date set for receiving bids on projects on which the applicant desires to bid.

The Division may at its discretion issue to a Contractor a Proposal requiring prequalification in excess of the amount allotted the Contractor provided it considers that this Contractor is particularly fitted by reason of their experience or equipment, or both, to perform work of this type involved in an amount exceeding their prequalification limits and further provided that the prospective bidder furnish the Division with a letter from a reputable Surety advising of their willingness to furnish bond to the Contractor for the project.

When more than one project is advertised, Proposals will be issued on as many projects as the Contractor requests, providing the Contractor is qualified as above for each individual project, but no contracts will be awarded exceeding the permissible limit of the Contractor's prequalification rating except as otherwise provided in 103.1.

102.4-INTERPRETATION OF APPROXIMATE ESTIMATES:

The quantities appearing in the proposal form are approximate only and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed and accepted, or for materials furnished in accordance with the Contract. If upon completion of the construction the actual quantities show either increase or decrease, the unit bid prices offered in the Proposal will prevail except as further provided.

102.5-EXAMINATION OF PLANS, SPECIFICATIONS AND SITE OF WORK:

The bidder is required to examine carefully the Plans, Specifications, Supplemental Specifications, contract forms, and the site of the work contemplated. The submission of a bid shall be considered prima facie evidence that the bidder has made such examination and has judged for and satisfied themselves as to the character, quality, and quantity of work to be performed and material required to be furnished under the Contract.

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102.6-PREPARATION OF PROPOSAL:

The bidders Proposal must be submitted on the form furnished by the Division. In lieu of using the Division's Schedule of Items, the bidder may submit a computer generated substitute schedule with the Proposal. The substitute schedule must be in a format approved in writing by the Division prior to use. The bidder must furnish a unit price or a lump sum price as called for in the Proposal, in numerical figures, for each pay item listed, except that in the case of alternates, the bid may be made on only one alternate if so desired. The bidder must also show the products of the respective unit prices and quantities in numerical figures in the column provided for that purpose and the total amount of the Proposal obtained in adding the products of the items.

All figures shall be in ink or typed. In case of discrepancy between the unit price and its extensions, the unit price will govern.

The Proposal must be signed in ink by the bidder or a qualified and authorized agent; by one or more bidders or officers of each firm represented in a joint venture; by one or more officers of a corporation duly authorized to act for and on behalf of the corporation; or by all partners or their individually qualified and authorized agents in case of a partnership.

The Proposal must contain the name and post office address of an individual bidder, the name and post office address of each individual or firm represented in a joint venture, the name and business address of a corporation and its corporate officials, or the name and post office address of each member of a partnership.

The proposal shall comply with West Virginia Contractor Licensing Act, Chapter 21, Article 11 Code of West Virginia, except that on Federal-Aid Projects a Contractor's license is not required at time of bid, but will be required before work can begin.

102.7-IRREGULAR PROPOSALS:

Proposals will be considered irregular and will be rejected for any of the following reasons:

- i. When the Proposal is on a form other than that furnished by the Division or if the form is altered. Use of a Division approved computer generated Schedule of Items shall not be considered an alteration of form or format within the meaning of these Specifications.
- ii. When there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the Proposal incomplete, indefinite, or ambiguous as to its meaning. Also, when Division approved computer generated Schedule of Items show any alteration of format, additions or amendments not called for, errors or omissions in units of measure, or erasures.
- iii. When the bidder adds any provisions reserving the right to accept

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or reject an award, or to enter into a Contract pursuant to an award. This does not exclude a bid limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting, providing that any selection of awards will be made by the Division.

- iv. When the Proposal does not contain a unit price for each pay item listed, except in the case of authorized alternate pay items.
- v. Failure to sign, properly execute or return the bid bond on the official form in the case of authorized alternate pay items.
- vi. Failure to sign, properly execute, or notarize the Proposal.
- vii. Failure to indicate a proposed goal in Section C, Item 3 of the Notice contained in the Proposal, when a Division determined goal is indicated in paragraph 5 of the Special Provision for Disadvantaged Business Enterprise Utilization.
- viii. Failure to properly acknowledge receipt of addendum(s) in accordance with Section I of the notice contained in the proposal.
- ix. Failure to show the West Virginia Contractor's License Number when required in Section H of the notice contained in the proposal.

102.8-PROPOSAL GUARANTY:

No proposal will be considered unless accompanied by a guaranty in the form of a certified or cashier's check, or bid bond, in the amount specified in the Proposal, made payable to the West Virginia Division of Highways. Bid bonds will be accepted only if executed on the official form furnished by the Division, and any Proposal accompanied by a bond executed on a copy, duplicate, or facsimile will be rejected.

102.9-DELIVERY OF PROPOSALS:

Each Proposal shall be submitted in a special envelope furnished by the Division with the Proposal. In the event of loss of the envelope, a similar one of the same general size and shape may be used. The envelope shall be endorsed on the outside "Proposal for the Improvement of the _____ Road or Bridge Number _____, Project No. _____, County _____, West Virginia." and shall have the name of the bidder thereon. Envelopes shall be addressed to The West Virginia Division of Highways, Charleston, West Virginia, and shall have the name and address of the bidder. Proposals shall be deposited at the proper designated office of the Division prior to the hour set in the Proposal for opening of bids. Proposals received after the time for opening of bids will be returned to the bidder unopened.

102.10-WITHDRAWAL OF PROPOSALS:

At any time prior to the opening of Proposals, bidders may withdraw Proposals already deposited with the Division, provided the request is made in

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writing or by telegraph; provided further that any bidder may withdraw their bid during the course of reading of bids prior to the actual reading of bids on the project for which the bid is withdrawn; further provided that the requested withdrawal is made in writing in the following form:

“I, the undersigned, of _____, Contractor(s) hereby acknowledge that I have this day withdrawn the sealed bid of _____, Contractor(s) on West Virginia Division of Highways Project No. _____.”

Contractors who are found to be low bidders on a number of projects of which the total exceeds the Contractor's rating may withdraw, with the approval of the Commissioner, bids on such project or projects as will bring the remaining total to within the limit of the rating. At their discretion, the Commissioner may award contracts for the project or projects on which bids have been so withdrawn to the next lowest qualified bidder.

102.11-COMBINATION PROPOSALS:

If the Division so elects, Proposals may be issued for projects in combination or separately, so that bids may be submitted either on the combination or on separate units of the combination. The Division reserves the right to make awards on combination bids or separate bids to the best advantage of the Division. No combination bids other than those specifically set up in proposals by the Division will be considered. Separate Contracts will be written for each individual project included in the combination.

102.12-PUBLIC OPENING OF PROPOSALS:

Proposals will be opened and read publicly at the time and place indicated in the notice to Contractors. Bidders, their authorized agents, and other interested parties are invited to be present.

102.13-DISQUALIFICATION OF BIDDERS:

Either of the following reasons may be considered as being sufficient for the disqualification of a bidder and the rejection of their Proposal or Proposals.

- i. More than one Proposal for the same work from an individual, firm, or corporation under the same or different name.
- ii. Evidence of collusion among bidders. Participants in such collusion will receive no recognition as bidders for any future work of the Division until any such participant shall have been reinstated as a qualified bidder.

102.14-MATERIAL GUARANTY:

The successful bidder shall furnish a complete statement of the origin, composition and manufacture of all materials to be used in the construction of the work, together with samples when required. Samples may be subjected to the tests provided for in these Specifications to determine their quality and fitness for the work.

102.15-FREE COMPETITIVE BIDDING AFFIDAVIT:

Prior to the approval of Federal-Aid Contracts, a sworn statement in the form of an affidavit shall be executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded. This affidavit must be sworn to before a Notary Public who must affix their seal thereto if outside the State of West Virginia.

The affidavit, with accompanying endorsement and acknowledgment sections, is contained in the contract Proposal.

102.16-PRE-CONSTRUCTION DATA:

Prospective bidders may review files at the West Virginia Division of Highways, Capitol Complex, Charleston, West Virginia. These files may contain additional information not included in the contract documents including, but not limited to, old plans, old shop drawings, geotechnical information, environmental documents, permit applications, permits, asbestos reports, hazardous waste reports and other data. Copies may be obtained upon request and payment of printing fees.

SECTION 103 AWARD AND EXECUTION OF CONTRACT

103.1-CONSIDERATION OF PROPOSALS:

After the Proposals are opened and read, they will be compared on the basis of the summation of the products of the approximate quantities shown in the bid schedule by the unit bid prices. The results of such comparisons will be made immediately available to the public. In the event of discrepancy between unit bid prices and extensions, the unit bid price shall govern.

The right is reserved to reject any or all proposals, to waive technicalities or to advertise for new proposals if, in the judgment of the Commissioner, the best interests of the State will be promoted.

If Proposals for more than one project are issued to a bidder, which projects individually would be within the bidder's qualification established provided in 102.1, but a combination of more than one, considering also the work under contract and incomplete, would be in excess of their qualification, the right is reserved to consider only such Proposal or Proposals as, in the opinion of the Commissioner, are most advantageous to the Division.

103.2-AWARD OF CONTRACT:

The award of Contract, if it be awarded, will be made within 30 calendar days after the opening of Proposals to the lowest responsible and prequalified bidder. The Commissioner may, with the agreement of the successful bidder, withhold award for any length of time. The successful bidder will be notified by letter, mailed to the address shown on their Proposal, that their bid has been accepted and that they have been awarded the Contract.