



STATE HIGHWAY
ADMINISTRATION

Maryland Department of Transportation

State Highway Administration Baltimore, Maryland Invitation for Bids

Contract No. DO2035180

F.A.P No. N/A

Replacement of Small Structure No. 09045X0 Double 36" Reinforced Concrete Pipe On MD 331 (Rhodesdale Road) Carrying a Tributary of Nanticoke River

Dorchester County

Disadvantaged/ Minority Business Enterprises are encouraged to respond to this Solicitation Notice.

The State Highway Administration will only be responsible for the completeness of documents, including all addenda, obtained directly from posting on eMaryland Marketplace Advantage and BidX.com.

Failure to complete the Addendum Receipt Verification Form may cause the bid to be irregular.

VENDOR I.D. NUMBER

S.H.A. USE ONLY



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NOTICE TO BIDDERS

A "Pre-Bidding Session" will not be conducted for this project.

NOTICE TO CONTRACTORS

Online Training Resources for Electronic Bidding

If you are a Contractor who is new to Maryland or are unfamiliar with the electronic bidding process, please visit Bid Express at <https://www.bidx.com/site/trainingcenter> and review the training materials first.

The Training Center offers a variety of videos and transcripts that include step-by-step guidance on topics such as; setting up a Bid Express account, creating a Digital ID, utilizing AASHTOWare Project Bids™ Bidding Component, downloading contract documents, bid submissions, and more.

Please note that the Maryland Department of Transportation State Highway Administration (MDOT SHA) does not use Trns*Port Expedite and also does not use Small Business Network for our electronic bidding.

After visiting the Training Center, if you have additional questions or concerns, please see our Frequently Asked Questions Notice to Contractors or contact MDOT SHA's Bid Express Team by phone at (410) 545-8840 or by email at mdotshabidx@mdot.maryland.gov

NOTICE TO CONTRACTORS

How to obtain potential bidder's list?

A Bidder's List for this solicitation is available on the Bid Express website, (<https://www.bidx.com/site/home>). To view this:

- Visit the BidX website listed above;
- On the menu bar across the top, select the "Lettings" tab;
- Select the desired Letting Date from the List of Lettings;
- Select the desired Proposal;
- On the right-hand side, under "Also Available" select "Plan Holders/Eligible Bidders."
- To access contact information for "Plan Holders", select "Export (csv)" and open or save the file created from this action. Note, if no "Plan Holders" are listed, the file will be blank. "Voluntary Plan Holder" contact information is available on the page.

NOTICE TO CONTRACTORS

Frequently Asked Questions - General

- Q1: Whom should I contact for technical issues related to eMMA or BidX?
- A1: Contact eMaryland Helpdesk at (410) 767-1492 for questions regarding eMaryland Marketplace Advantage website. Contact Bid Express at (888) 352-2439 or at customer.support@bidx.com for questions about “.ebxs” files or electronic bidding.
- Q2: Will the quantities file be provided for projects that advertise on BidX?
- A2: The quantities file (“qty.z”) will no longer be provided. The information from the “.ebxs” file can be exported from the AASHTOWare Project Bids™ Bid Component software to csv or tab separated format.
- Q3: What is my vendor-id/ bidder-id to register on BidX?
- A3: In most cases, the vendor-id is the letter ‘V’ followed by your firm’s FEIN without any dashes or spaces. Before requesting to bid in Maryland, please contact us at (410) 545-8840 or MdotSHABidX@sha.state.md.us to reconfirm your vendor-id/bidder-id.
- Q4: Whom do I contact for billing and subscription questions?
- A4: Please contact Bid Express Customer Support by phone at (888) 352-2439 or by email at customer.support@bidx.com.

Frequently Asked Questions – Accessing Materials

- Q5: Where can I retrieve the contract documents?
- A5: All contract documents may be downloaded from eMaryland Marketplace Advantage free of charge. The same documents are provided on Bid Express for subscribed vendors as well. However, if you wish to bid on a contract, you must be registered with Bid Express and have a basic subscription that allows you to submit bids.
- Q6: How can I view the “.ebxs” file?
- A6: You may download the free AASHTOWare Project Bids™ Bid Component software from <https://bids.cloverleaf.net/>. This software must be installed locally on your computer. Please note that MDOT SHA does not use Trns*Port Expedite® for bidding purposes.
- Q7: How do I save the .ebxs and .00#x files?

- A7:** Please select the .ebsx and .00#x files, or the Zip File for the proposal. The files must be saved in the same location (i.e., folder) and saved locally on your computer, not on a network drive.
- Q8:** Where do I find the Proposal Form Packet and Schedule of Prices?
- A8:** The Schedule of Prices and Proposal Form Packet are now condensed into a single file that ends with “.ebsx”, this is posted as a contract document at advertisement. For example, a contract PG6185170, the Proposal Form Packet and the Schedule of Prices file would be in a file titled PG6185170.ebsx.
- Q9:** How are contract addenda changes posted for electronic bidding projects?
- A9:** Every contract addendum will have an accompanying addendum letter and a file that is named ContractNumber.00#x where 00# refer to the number of addenda or amendments. Prior to submitting your bid, ALL addenda files must be downloaded. These amendment file(s) is (are) to be stored in the same location as the “.ebsx” file. The changes due to addendum are described in the accompanying addendum letter. Using the AASHTOWare Project Bids™ Bid Component software you can open the ContractNumber.ebsx file and the software will automatically compile all the addenda changes.
- Q10:** What do I do when the file has a “~” in the filename?
- A10:** Occasionally the “.ebsx” file posted on eMMA will have ‘~’ in the filename; if this occurs, you must download the file to the computer and rename it to “ContractNumber.ebsx” for it to work properly. For example, if you encounter a filename titled PG6185170~2.ebsx on eMMA, then download the file and rename it to PG6185170.ebsx. Similarly, if you encounter a file name titled PG6185170~1.003x on eMMA, then download the file and rename it to PG6185170.003x.

Frequently Asked Questions – Bidding

- Q11:** Do I need an account with Bid Express to bid?
- A11:** Yes, Bid Express requires at a minimum a basic subscription. For more information regarding subscription packages and fee, please visit <https://bidx.com/site/static?page=fees>.
- Q12:** How and where do we submit bids?
- A12:** Please refer to the project advertisement on where to submit bids.

Bids are filled out and submitted via the AASHTOWare Project Bids™ Bid Component software, using the Bid Express service. Please completely fill out the Proposal Form Packet and Schedule of Prices in the software to submit the bid. Once the bid is complete, please click on the lightning bolt button at the top of the page or

select Submit Bid from the Tools menu, and start the Bid Submission Wizard to submit the bid.

More information on submitting bids electronically is available at the following location: <https://www.bidx.com/site/trainingcenter> where tutorial videos are available.

Q13: Can I revise a bid I have already submitted it? If so, how can I revise my bid?

A13: Yes, you may revise a bid that has been previously submitted. However, you may only revise bids prior to noon of the letting date. Once noon on the letting date has passed, bids may no longer be revised or withdrawn and will be processed as submitted.

If you wish to revise your bid, simply open the proposal using the AASHTOWare Project Bids™ Bid Component software and make your revisions. Please note when resubmitting your bid, you must re-attach all attachments. Re-attaching attachments means navigating to EVERY attachment location in the ".ebsx file" and re-selecting the attachment using the 'Browse' button, prior to re-submission.

Q14: If I am not the apparent low bidder, am I required to deliver the original proposal guaranty/ bid security to MDOT SHA?

A14: Yes, unless the bid security is electronically verifiable, all bidders must submit the original bid security per GP-2.08.

Q15: Is it acceptable to use a paper bid bond as a bid security?

A15: No.

Q16: Must I submit bid security for every project?

A16: Yes, unless specified otherwise.

TABLE OF CONTENTS

	Page Number
Notice to Contractors-Online Training Resources for Electronic Bidding-----	i
Notice to Contractors-How to Obtain Potential Bidder's List -----	ii
Notice to Contractors-Frequently Asked Questions-----	iii-v
Table of Contents-----	vi-viii
 CONTRACT PROVISIONS	
Electronic Bidding -----	1-2
Notice To All Holders Of This Contract Document- Manual on Uniform traffic Control Devices (MUTCD) Requirements-----	3
Notice To All Holders Of This Contract Document- National Cooperative Highway Research Program (NCHRP) Report 350 Implementation Schedule For Devices Used In The Maintenance Of Traffic-----	4-5
Occupying Wetlands -----	6
Affirmative Action Requirements Utilization of Minority Business Enterprises for Straight State Contracts-----	7-15
Notice to Contractors MBE/DBE -----	16
Contract Provisions - MBE Dual Certification -----	17
Contract Provisions – Apprenticeship Training Fund -----	18-22
Special MBE/DBE Compliance Field Meeting -----	23
Traffic Control Plan Certification-----	24
Prevailing Wage Rate Instructions for the Contractor -----	25-28
Wage Rates -----	29-31

TABLE OF CONTENTS

	Page Number
Contractor Affirmative Action Program -----	32-39
PROJECT DESCRIPTION	
Notice to All Holders of this Contract Document	
High Visibility Safety Apparel Policy-----	40-41
SP-Project Description, Specifications, Employment Agency-----	42
SP-Notice to Contractor -----	43-48
SP-Right-of-Way Status-----	49
Permits and Approvals-----	50-101
TERMS AND CONDITIONS	
SP-TC Section 2 - Control of Work	
TC-2.05 Delivery of Bids.-----	102-103
SP-TC Section 4 - Control of Work	
TC-4.02 Failure to Adequately Maintain Project. -----	104
SP-TC Section 7- Payment	
TC-7.09 Price Adjustment for Diesel Fuel-----	105-107
CATEGORY 100 PRELIMINARY	
SPI-Section 103-Engineers Office -----	108
SP-Section 103-Engineers Office	
103.03.06 Computer System for all Offices -----	109
SP-Section 104-Maintenance of Traffic	
104.01 Traffic Control Plan (TCP).-----	110-114
SP-Section 104-Maintenance of Traffic	
104.23 Protection Vehicle (PV).-----	115
SPI-Section 109-Critical Path Method Project Schedule -----	116

TABLE OF CONTENTS

	Page Number
SPI-Section 110-Activities Chart Project Schedule -----	117
CATEGORY 200 GRADING	
SP-Section 203-Borrow Excavation -----	118-121
CATEGORY 300 DRAINAGE	
SP-Section 308-Erosion and Sediment Control – Incentive/Liquidated Damages -----	122
CATEGORY 400 STRUCTURES	
SP-Section 405-Removal of Existing Structure-----	123-124
SP-Section 420-Portland Cement Concrete Structures -----	125
SP-Section 499-Working Drawings -----	126
CATEGORY 800 TRAFFIC	
SP-Section 800-Maintain Existing Roadway Lighting -----	127
SP-Section 800-As-Built Lighting Inventory -----	128-130
UTILITIES	
SP-Section 875-Utility Statement-----	131-135
CATEGORY 900 MATERIALS	
SPI-Section 918-Traffic Barrier W Beam / Thrie Beam -----	136
SPI-Section 921-Miscellaneous -----	137-138
MISCELLANEOUS CONTRACT DETAILS	
Test Pit Data-----	139-145
Pavement Coring Logs -----	146-147

CONTRACT PROVISIONS**INSTRUCTIONS AND REQUIREMENTS FOR ELECTRONIC BIDDING**

CONTRACT NO. DO2035180

1 of 2

**ELECTRONIC BIDDING
INSTRUCTIONS AND REQUIREMENTS FOR ELECTRONIC BIDDING****Electronic Bidding Documents**

All bidding documents for Contract No. DO2035180 referred herein that discuss paper or hardcopy submittals are to be construed to mean electronically submitted.

Contract Documents

The Administration will continue to advertise projects on the eMaryland Marketplace Advantage (eMMA) website. The address for this website is <https://procurement.maryland.gov>. The eMaryland Marketplace Advantage is an electronic commerce system administered by the Maryland Department of General Services. Members of the public, bidders, subcontractors and suppliers may continue to access the project contract documents through this website at no charge. All associated materials, the solicitation, the summary of pre-bid meetings, bidder's questions and the Procurement Officers responses, Addenda, and other solicitation related information will be provided on eMMA. In order to obtain updates and contract addenda, bidders must register on eMMA. The registration on eMMA is free. Should you have any questions regarding registration, please call the eMMA Help Desk at 410-767-1492. The project contract documents are also available on the Bid Express website located at <https://www.bidx.com/maryland/main> for a subscription fee.

Bidders must use the electronic bid forms provided by the Administration to submit bids. The forms are available on the appropriate sections of the eMMA and on Bid Express websites. Paper bids will not be accepted for this contract. It is the bidder's responsibility to ensure that they download the complete official Bid Proposal Form ('.ebsx' file) and any amendment files ('.NUMx') associated with that specific Bid Proposal Form. Amendment files ('.NUMx') are posted to the Bid Express and eMMA websites when there is a change to the Bid Proposal Form, including a letting date change. The Administration is not liable for the bidder's failure to download the complete contract documents, the official Bid Proposal Form ('.ebsx' file) or the amendment files ('.NUMx').

Bid Preparation

AASHTOWare Project Bids™ Bid Component software is required to view, prepare and submit the bid (proposal form packet). The AASHTOWare Project Bids™ Bid Component is available at <https://bids.cloverleaf.net/> for download and use at no charge. The AASHTOWare Project Bids™ Bid Component detailed instructions for set up and installation are available at:

https://www.infotechfl.com/downloads/bidx/Quick_Start_bidding_w_AASHTOWare_Project_Bids_Bid.pdf.

Bid Submittal – Registration and Paid Subscription is Required

In order to submit bids, bidders must: designate an individual to submit bids on behalf of the bidding entity, register with Bid Express, during registration select Maryland Department of Transportation as the referring Agency, have a paid subscription to Bid Express' Internet Bidding Service, obtain an Info Tech Digital ID and request to bid in Maryland. The designated individual must be authorized, pursuant to the effective legal documents of the bidding entity, to sign and submit binding legal documents on behalf of the bidding entity.

CONTRACT PROVISIONS

CONTRACT NO. DO2035180

INSTRUCTIONS AND REQUIREMENTS FOR ELECTRONIC BIDDING

2 of 2

Payment of a Bid Express subscription is required to submit a bid. For current fee schedules please visit https://www.infotechfl.com/legal/fee_schedule. All fees are payable to Bid Express. Potential bidders are encouraged to register in advance with Bid Express as the registration process and the Digital ID creation at least 7 business days. For more information about Bid Express registration and subscription, please visit <https://www.bidx.com/site/registration>. Bidders may call or email the Bid Express Customer Support Team at 888-352-BIDX (2439) or at customer.support@bidx.com for assistance with registration.

All bids must be submitted to <https://www.bidx.com/maryland/main>. A bid extension will not be granted for delays in registration, for errors in submission of electronic bids or for unsuccessful or incomplete transmission of bids to Bid Express. Bid submittal shall be in accordance with TC-2.05.

Bid Completeness and Accuracy

Bidders are solely responsible to review, understand and adhere to all bid instructions, requirements and specifications. Due to inherent limitations, the AASHTOWare Project Bids™ Bid Component software cannot identify all bid proposal errors and omissions. Bidders shall not rely on this software or the Bid Express website to identify errors and omissions in their bid proposal. Any feedback from the AASHTOWare Project Bids™ Bid Component software including, but not limited to, the green check marks and red exclamation marks does not validate, or otherwise indicate completeness or responsiveness of the bid proposal. Transmission of the bid proposal and MBE/ DBE forms to Bid Express does not imply that the submitted bid package is free of errors and omissions or that the submitted bid is susceptible to award. Bidders are responsible for completeness and accuracy of their bid proposals and MBE/ DBE forms.

Bid Security / Proposal Guaranty – Electronic Verification

Bid Express permits bidders to have electronic bid bond verification. The Administration will accept electronic bid bond verification. The two companies that provide electronic bid bond verification are Insure Vision and Surety 2000. For information on Insure Vision please visit <http://web.insurevision.com>. For information on Surety 2000 please visit <http://surety2000.com>. For additional information see GP-2.07.

Bid Opening and Requirements.

Bid Opening shall be in accordance with GP-2.13.

CONTRACT PROVISIONS

CONTRACT NO. DO2035180

MARYLAND MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES
(MdMUTCD) REQUIREMENTS

1 of 1

NOTICE TO ALL HOLDERS OF THIS CONTRACT DOCUMENT

**MARYLAND MANUAL ON UNIFORM TRAFFIC CONTROL
DEVICES (MdMUTCD) REQUIREMENTS**

The 2011 Maryland Manual on Uniform Traffic Control Devices (MdMUTCD) is the legal State standard for traffic control devices. All traffic control devices (temporary or permanent) utilized on Administration projects shall be in conformance with the requirements provided in the 2011 Edition of the Administration's MdMUTCD for Streets and Highways.

CONTRACT PROVISIONS
(NCHRP) REPORT 350 AND MASH COMPLIANCE

CONTRACT NO. DO2035180
1 of 2

NOTICE TO ALL HOLDERS OF THIS CONTRACT DOCUMENT

**NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM (NCHRP)
REPORT 350 AND THE MANUAL FOR ASSESSING SAFETY HARDWARE (MASH)
COMPLIANCE FOR DEVICES USED IN THE MAINTENANCE OF TRAFFIC AND
TRAFFIC CONTROL**

Except as otherwise specified in this section, all temporary and permanent highway safety features, including longitudinal barriers, transitions, end terminals, crash cushions, breakaway/yielding supports, truck-mounted attenuators, and work zone traffic control devices, shall meet values recommended when applicable tests are performed for evaluation criteria for the respective evaluation factors, as defined in NCHRP Report 350, or the MASH 2016, as noted herein. When conformance with NCHRP Report 350 or MASH 2016 is required, provide the Engineer with the manufacturers' certifications that the devices comply with the specified criteria. All temporary and permanent highway safety features shall comply with MASH 2016 criteria by the relevant dates noted below.

TEMPORARY INSTALLATIONS FOR MAINTENANCE OF TRAFFIC

The implementation dates below apply to temporary work zone roadside safety hardware and devices.

Temporary work zone devices, including Category 1, 2, 3 and 4 devices manufactured after 12/31/2019, when applicable, must be successfully tested to the 2016 edition of MASH. Relevant devices manufactured on or before 12/31/2019, and successfully tested to NCHRP 350, the 2009 edition of MASH, or otherwise authorized, may continue to be used.

Unless specifically waived in the Contract Documents, only devices approved on Qualified Product List by the Administration may be used.

Category 1 Devices

These devices include cones, tubular markers, flexible delineator posts, and drums, none of which have any accessories or attachments, and are used for channelization and/or delineation.

Category 2 Devices

These devices include Type I, II, and III barricades, portable sign supports with signs, intrusion alarms, and vertical panels. Category 1 devices, such as drums or cones, that are modified with accessories or attachments shall be considered Category 2 devices.

Category 3 Devices

- (a) Truck Mounted Attenuators (TMAs) and Trailer Truck Mounted Attenuators (TTMAs).
- (b) Temporary Barrier.
 - (1) Concrete Barrier.
 - (2) Traffic Barrier W-Beam and Water Filled Barrier.
 - (3) Steel/Aluminum Barrier.

CONTRACT PROVISIONS
(NCHRP) REPORT 350 AND MASH COMPLIANCE

CONTRACT NO. DO2035180
2 of 2

(c) Temporary End Treatments.

Category 4 Devices

These devices include area lighting supports, arrow panels, and portable variable message signs that may be portable or trailer-mounted.

Use of Category 4 devices shall comply with the provisions of Part 6 of the MD MUTCD.

PERMANENT ROADSIDE HARDWARE INSTALLATION

The implementation dates below apply to both new and replacement installations of roadside safety hardware on National Highway System (NHS) roadways except when a waiver is approved by FHWA

December 31, 2017: Contracts with bid openings after this date shall meet MASH 2016 testing criteria for all installations and replacements of W-beam barriers and cast-in-place concrete barriers as specified in Contract Documents.

June 30, 2018: Contracts with bid openings after this date shall meet MASH 2016 testing criteria for all installations and replacements of W-beam tangent terminals as specified in Contract Documents.

December 31, 2018: Contracts with bid openings after this date shall meet MASH 2016 testing criteria for all installations and replacements of crash cushions.

December 31, 2019: Contracts with bid openings after this date shall meet testing criteria as defined in MASH 2016 guidelines for all new permanent installations and full replacements of bridge rail, transitions, all other longitudinal barrier (including portable barriers installed permanently), other W-beam terminals (such as double-sided or median terminals, flared terminals, and terminals installed on a flare), sign supports, cable barrier, cable barrier terminals, all other terminals, and all other breakaway hardware as specified in Contract Documents.

**CONTRACT PROVISIONS
OCCUPYING WETLANDS**

CONTRACT NO. DO2035180
1 of 1

OCCUPYING WETLANDS

The Contractor is hereby alerted to the importance of preserving wetland areas. The Administration, in conjunction with the various environmental agencies, has developed these Contract Documents so as to minimize or eliminate disturbance and damage to existing wetland areas. In order to accomplish this, the following must be rigidly adhered to:

- (a) Prior to performing any work on the project, the areas of wetland will be identified and marked as directed by the Administration. All personnel of the Contractor or sub-contractors shall be alerted to these designated areas.
- (b) The Contractor or sub-contractors shall not impact any wetland or waterway, whether it be permanently or temporarily unless otherwise stipulated in the permit application and approved as an authorized action by the appropriate regulatory agency. No fill shall be placed in these areas without a permit.
- (c) If a Contractor or sub-contractor has to impact a wetland or waterway that is not covered by an existing wetland permit, they shall immediately notify the Engineer. The Engineer will notify the Environmental Programs Division to determine the extent of any permit modification. At that time the Environmental Programs Division will request a permit modification or submit a permit application.
- (d) If the Contractor impacts any wetland or waterway for which they do not have a wetland permit, they shall be responsible for restoring the wetland areas and possibly mitigating the wetland impacts to the full satisfaction of the environmental agencies, which could include monetary compensation.
- (e) The cost of restoration and mitigation of the impacted areas shall be at no additional cost to the Administration.

The importance of not abusing the wetland areas cannot be overemphasized. Abuse of wetland areas could jeopardize the operation of the total Contract and could be cause for a shut-down. If a shut-down occurs because of the Contractor's failure to secure the required permits (i.e. the Contractor's method of work includes impacts not approved by previously acquired permits), the Contractor's negligence or operations, all costs and damages to the Contractor and to the State will be at no additional cost to the Administration. Noncompliance with these requirements will not be considered for an extension of Contract time.

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
1 of 9

AFFIRMATIVE ACTION REQUIREMENTS
UTILIZATION OF MINORITY BUSINESS ENTERPRISES
FOR STRAIGHT STATE CONTRACTS
(Where the Contractor's bid exceeds \$50,000)

A. General

For the purpose of these requirements, the following terms as defined below shall apply:

Administration Representative – A Minority Business Enterprise (MBE) Officer of an Administration who enforces the laws and regulations pertaining to minority business enterprise and Contract compliance.

Affirmative Actions – Specific steps taken to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve minority businesses fully in contracts and programs.

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

Certified Business – A business which by order of the Chair/MBE Advisory Council or his/her designee, has been certified as a bona fide MBE.

Director, Office of Equal Opportunity – The individual designated for the Administration's overall MBE compliance.

Joint Venture – An association of a MBE firm and one or more other firms to carry out a single, for profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the MBE is responsible for a distinct, clearly defined portion of the work of the Contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Minority Business Enterprise (MBE) – Any legal entity, other than a joint venture, organized to engage in commercial transactions which is at least 51 percent owned and controlled by one or more minority persons, or a nonprofit entity organized to promote interests of the physically or mentally disabled.

MBE Directory – A compilation of businesses certified by MDOT as minority or socially and economically disadvantaged businesses. The directory will be published annually with quarterly supplements. It will also be provided in automated format and on the Internet to be updated as changes are made.

MBE Program – A program developed by MDOT to implement the requirements of Title 14, Subtitle 3 of the State Finance Procurement Article, Annotated Code of Maryland and Title 10, Subtitle 3 of the State Finance Procurement Article of the Annotated Code of Maryland for Leases of State-Owned Property.

MBE Participation Packet – The documents submitted by the bidder or proposer pursuant to the appropriate special bid provisions. The MBE Participation Packet shall consist of the MBE Utilization Affidavit and the MBE Participation Schedule, both of which must be submitted with your bid or initial price proposal. The MBE Participation Packet also includes

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
2 of 9

the following documents which are submitted after bids or proposals are opened: MDOT Outreach Efforts Compliance Statement (Form MDOT-OP-014-2), the MDOT MBE Subcontractor Project Participation Affidavit (Form MDOT-OP-015-2), the MDOT Joint Venture Disclosure Affidavit (Form D-EEO-006) and the Minority Contractor Unavailability Certificate (Form OOC46).

Minority or Minority Person for Straight State Contracts - Member of one of the following socially and economically disadvantaged groups:

1. African American – An individual having origins in any of the Black racial groups of Africa;
2. American Indian/Native American – An individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise organized group of native people who are indigenous to the continental United States or who otherwise have a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which he/she claims to be a part, but does not include an individual of Eskimo or Aleutian origin;
3. Asian – An individual having origins in the far East, Southeast Asia, or the Indian Subcontinent and who is regarded as such by the community of which the person claims to be a part;
4. Hispanic – An individual of Mexican, Puerto Rican, Cuban, Central or South American, Portuguese or other Spanish culture or origin regardless of race, and who is regarded as such by the community of which the person claims to be a part;
5. Women – This category shall include all women, regardless of race or ethnicity, although a woman who is also a member of an ethnic or racial minority group may elect that category in lieu of the gender category; or
6. Physically or Mentally Disabled – An individual who has an impairment that substantially limits one or more major life activity, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business.

B. MBE and Good Faith Effort Requirements

1. This contract includes an MBE participation goal for subcontracting, and/or procurement of materials, and/or services. Bidders/Offerors must make a good faith effort to meet the MBE participation goal **before bids or proposals are due**, including outreach efforts. A bid or initial proposal must include both a completed and executed Certified MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule. The failure of a bidder to complete and submit the Certified MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule shall result in a determination that the bid is not responsive. The failure of an offeror to complete and submit the Certified MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule shall result in a determination that the proposal is not susceptible of being selected for award.
2. In making a good faith effort to achieve the MBE goal, prior to completing the Certified MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule and prior

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
3 of 9

to submitting a bid or initial proposal bidders (or offerors) including those bidders or offerors that are certified MBEs must:

- a. Identify specific work categories within the scope of the procurement appropriate for subcontracting and/or procurement of materials and/or services;
 - b. **Solicit certified MBEs in writing at least 10 days before bids or initial proposals are due**, describing the identified work categories and providing instructions on how to bid on the subcontracts and/or procurement of materials and/or services;
 - c. Attempt to make personal contact with the certified MBEs solicited and to document these attempts;
 - d. Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and
 - e. Attend prebid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.
3. The bidder shall seek commitments from minority business enterprises by subcontracting and/or procurement of materials and/or services, the combined value of which equals or exceeds the established Contract goal of Six (6) percent of the total value of the prime Contract. The Administration has further established that, within this Contract goal, there shall be a sub-goal of a minimum of Zero (0) percent participation by firms classified as African American-owned firms, a sub-goal of Zero (0) percent participation by firms classified as Woman-owned firms, a sub-goal of a minimum of Zero (0) percent participation by firms classified as Hispanic American-owned firms, and a sub-goal of a minimum of Zero (0) percent participation by firms classified as Asian American-owned firms. A bidder may count toward its MBE goals expenditures for materials and supplies obtained from MBE regular dealers and/or manufactures provided that the MBE assume the actual and contractual responsibility for the provision of the materials and supplies. The bidder may count its entire expenditure to a MBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale). The bidder may count sixty (60) percent of its expenditures to a MBE regular dealer, that is not a manufacturer, provided that the MBE supplier performs a commercially useful function in the supply process. The apparent low bidder shall submit to the Administration, within ten (10) business days after notification that it is the apparent low bidder, an acceptable Affirmative Action Plan for the utilization of Minority Business Enterprises in this Contract. The Contract will not be awarded without the bidder's Affirmative Action Plan being approved by the Administration.
4. The Affirmative Action Plan shall include as a minimum:
- a. The name of an employee designated as the bidder's Minority Business Liaison Officer.
 - b. A complete MBE Subcontractor Project Participation Affidavit (MDOT-OP 015-2), of minority business enterprises, from among those whose names appear in the MDOT MBE Directory or who are otherwise certified by MDOT as being minority business enterprises. Except as permitted by law and approved by the Administration, the MBE Subcontractor Project Participation Affidavit (MDOT-OP 015-2) submitted after the opening of bids or proposals shall include all MBE firms identified on the MBE participation schedule submitted with the bid or initial proposal with a percentage of participation that meets or exceeds the percentage of participation indicated in the bid or initial proposal. The MBE Subcontractor Project Participation Affidavit (MDOT-

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
4 of 9

OP 015-2) shall be completed and signed by the Bidder and MBE for each business listed in the MBE Participation Schedule.

c. A completed Outreach Efforts Compliance Statement (MDOT-OP 014-2).

5. When a bidder intends to attain the appropriate goal for minority business enterprise participation by use of a joint venture, the bidder shall submit a Joint Venture Disclosure Affidavit (MDOT D-EEO-006-A) showing the extent of the MBE participation. If a bidder intends to use a joint venture as a subcontractor to meet its goal, the affidavit shall be submitted through the bidder by the proposed subcontractor and signed by all parties.
6. When the proposed MBE participation does not meet the MBE Contract goals, information sufficient to demonstrate that the bidder has made good faith efforts to meet these goals shall be required.

7. Request for Exception to the MBE Goal

If the bidder is unable to secure from MBEs by subcontracting and/or by procurement of materials and/or services, commitments which at least equal the appropriate percent of the value of the prime Contract at time of bid, the bidder shall request, in writing, waiver of the unmet portion of the goal. This request must be initiated by checking the appropriate box on the Certified MBE Utilization and Fair Solicitation Affidavit submitted with the bid or initial proposal.

The waiver may be granted by the Administrator. To obtain approval of a waiver, the bidder shall submit the following:

- a. A detailed statement of efforts made prior to bid to contact and negotiate with MBEs including the dates, names, addresses, and telephone numbers of MBEs who were contacted; a description of the information provided to the MBEs regarding the work to be performed, anticipated schedule for portions of the work to be performed; and a detailed statement of the reasons why additional prospective agreements with MBEs were not reached;
- b. A detailed statement of the efforts made to select portions of the work proposed to be performed by MBEs in order to increase the likelihood of achieving the stated goals;
- c. For each MBE that the Contractor considers not qualified, but from which a bid has been received, a detailed statement of the reasons for the bidder's conclusion; and
- d. For each MBE contacted but unavailable, a Minority Contractor Unavailability Certificate, (OOC46), signed by the minority business enterprise, or a statement from the bidder stating that the MBE refused to sign the Certificate.

8. Guidance concerning good faith efforts

The following is a list of the types of actions and factors that will be used to determine the bidder's or offeror's good faith efforts to obtain MBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
5 of 9

meetings, advertising and/or written notices) the interest of certified MBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the MBEs to respond to the solicitation. The bidder must determine with certainty if the MBEs are interested by taking appropriate steps to follow up initial solicitations.

- (2) Selecting portions of the work to be performed by MBEs in order to increase the likelihood that the MBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE participation, even when the bidder or offeror might otherwise prefer to perform these work items with its own forces.
- (3) Providing interested MBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (4) (a) Negotiating in good faith with interested MBEs. It is the bidder's or offeror's responsibility to make a portion of the work available to MBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of MBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs to perform the work.

(b) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using MBEs is not in itself sufficient reason for a bidder's failure to meet the contract MBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders and offerors are not, however, required to accept higher quotes from MBEs if the price difference is excessive or unreasonable.
- (5) Not rejecting MBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- (6) Making efforts to assist interested MBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- (7) Making efforts to assist interested MBEs in obtaining necessary equipment, supplies,

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
6 of 9

materials, or related assistance or services.

- (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs.
- (9) In determining whether a bidder or offeror has made good faith efforts, the Administration may take into account the performance of other bidders or offerors in meeting the contract goal. For example, when the apparent successful bidder or offeror fails to meet the contract goal, but others meet it, the Administration may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder or offeror could have met the goal. If the apparent successful bidder or offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other bidders or offerors, the Administration may view this, in conjunction with other factors, as evidence of the apparent successful bidder or offeror having made good faith efforts.

9. Bidder Use of MBE Special Services

The bidder shall consider, whenever possible, utilizing the services of minority-owned banks. Most minority banks are full-service corporations that can provide an array of financial services such as Treasury and Tax Loan fund accounts, time and demand deposit accounts, payroll services and if needed, organization investment counseling. It is the policy of MDOT to encourage its Contractors to utilize, on a continuing basis, MBE banks.

10. Bidder Records

The bidder shall maintain records showing actions which have been taken to comply with procedures set forth herein.

11. Bidders Cooperation

The bidder shall cooperate with the Administration representative in any review of the Contractor's procedures and practices, with respect to the MBEs, which the Administration's representative may, from time to time, conduct.

12. Bidder MBE Modifications

During the life of the Contract, all plans to modify the approved MBE participation program will require the approval of the Administrator or his authorized representative. This will include any changes to items of work to be sublet or materials and services to be obtained which differs from those in the original MBE participation program. All requests for revisions shall be directed to the appropriate District Engineer for disposition.

The low bidder's failure to participate in any of the above proceedings or failure to furnish information after written request may result in rejecting the bid and non-award of the Contract.

C. RECORDS AND REPORTS

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
7 of 9

1. The Contractor shall keep such records as are necessary to determine compliance with its Minority Business Enterprise utilization obligations. The records kept by the Contractor shall be designed to include:
 - a. The name of minority and non-minority subcontractors and suppliers, the type of work materials or services being performed on or incorporated in this project, the monetary value of such work materials or services, the terms of performance and/or delivery, copies of all cancelled checks paid to subcontractors and suppliers and a record of all payments made to subcontractors and suppliers.
 - b. Documentation of all correspondence, contacts, telephone calls, etc., to obtain the services of minority business enterprises on this project.
 - c. The progress and efforts made in seeking out minority contractor organizations and individual minority contractors for work on this project.
2. The Contractor shall submit reports, on a monthly basis, of those contracts and other business transactions executed with minority business enterprises, with respect to the records referred to in C. 1., above, in such form, manner and content as prescribed by the Administration. The reports shall be due monthly on the 15th calendar day of each month. If the Contractor cannot submit their report on time, the Contractor shall notify the Administration's representative and request additional time to submit the report. Failure of the Contractor to report in a time manner may result in a finding of noncompliance. Additional report may be required by the Administration upon request.
3. To insure compliance with the certified MBE Contract participation goal, the Contractor shall:
 - a. Submit monthly reports listing all unpaid invoices over 30 days, from certified MBE subcontractors, and the reason payment has not been made.
 - b. Include in its agreement, with certified MBE subcontractors a, requirement that MBE subcontractors are to submit monthly, to the Administration, a report identifying the prime Contractor and listing the following:
 - (1) Payment received from the prime Contractor, in the proceeding 30 days;
 - (2) Invoices for which the subcontractor has not been paid.
4. All such records and reports shall be retained for a period of three years following acceptance of final payment and shall be available for inspection by the Maryland Department of Transportation and this Administration.

D. ADMINISTRATIVE PROCEDURES FOR ENFORCEMENT

1. Whenever the Administration believes the prime Contractor or any subcontractor may not be operating in compliance with the terms of these provisions, the Administration's representative will conduct an investigation. If the Administration representative finds the prime Contractor or any subcontractor is not in compliance with these provisions, the representative will make a report of noncompliance and notify such Contractor in writing of the steps that will, in the judgement of the Administration, bring the Contractor into

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
8 of 9

compliance. If the Contractor fails or refuses to comply fully with such steps, the Administration's representative will make a final report of the noncompliance to the Administrator, who may direct the imposition of one or more of the sanctions listed below:

- a. Suspension of work on the project, pending correction;
 - b. Withholding payment or a percentage thereof, pending correction;
 - c. Referral of MBEs to the MDOT office of MBE, for review for decertification, for review/referral to the Attorney General's Office for review/initiation of debarment or for review for criminal prosecution through the MDOT Office of General Counsel;
 - d. Initiation of suspension in accordance with COMAR regulations;
 - e. Referral to the Attorney General's Office for review for debarment or for criminal prosecution through the MDOT Office of General Counsel;
 - f. Any other action as appropriate, within the discretion of the Administrator.
2. If the documents used to determine the status of a MBE contains false, or misleading or misrepresenting information, the matter will be referred to the MDOT Office of the General Counsel for appropriate action. In addition, when directed by the Administrator, the Contractor shall terminate, without liability to the Administration, its contract with a firm, which for any reason, is either no longer certified or no longer eligible to do business in the State. The Contractor shall promptly submit plans for maintaining the required MBE participation on the project or appropriate request for waiver of all or part of the Contract goal with appropriate documentation to support Good Faith Efforts (as established by COMAR including the MDOT MBE/MBE Program Manual). The program and all revisions require the Administrator's approval.
3. **Liquidated Damages.** This contract requires the contractor to make good faith efforts to comply with the Minority Business Enterprise ("MBE") Program and contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and MBE contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

Therefore, upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or contract provisions, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

- a. Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$23.00 per calendar day until the monthly report is submitted as

CONTRACT PROVISIONS
MBE FOR STRAIGHT STATE CONTRACTS

CONTRACT NO. DO2035180
9 of 9

required.

- b. Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$82.00 per week per MBE subcontractor.
- c. Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the contract.
- d. Failure to meet the Contractor's total MBE participation goal and subgoal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.

Notwithstanding the use of liquidated damages, the State reserves the right to terminate the contract and exercise all other rights and remedies provided in the contract or by law.

E. SUBCONTRACTING.

Subcontracting by the Prime Contractor. Form B Request for Approval of Subcontractor shall be used by the Prime Contractor to request approval of a Subcontractor and also to ensure that a formal Subcontract has been or will be written and kept on file by the Prime Contractor. Completion and submittal of the form by the Prime Contractor acknowledges that the Administration's Contracting Officer may require the submission of the written Subcontract for review by the Administration and/or FHWA.

Lower Tier Subcontracting by an Approved Subcontractor. Form B Subcontractor's Request for Approval of Lower Tier Subcontractor shall be used by an Approved Subcontractor to request approval of a Lower Tier Subcontractor and also to ensure that a formal Subcontract has been or will be written and kept on file by the Subcontractor. Completion and submittal of the form by the Subcontractor acknowledges that the Administration's Contracting Officer may require the submission of the written Subcontract for review by the Administration and/or FHWA.

Form Acquisitions. Maryland State Highway Administration Form B may be acquired through the Administration's Contracts Award Team or District Office. All questions should be directed to the Office of Construction, Contracts Award Team.

It is the Administration's intention to randomly select during each calendar quarter a representative sample of written Subcontracts for review. This review will be conducted by the Office of Construction's Contracts Award Team.

CONTRACT PROVISIONS
NOTICE TO CONTRACTORS MBE/DBE GOAL

CONTRACT NO. DO2035180
1 of 1

NOTICE TO CONTRACTORS
CONCERNING THE MBE/DBE GOAL ON THIS CONTRACT

The Maryland Department of Transportation is committed to providing the maximum amount of contracting opportunities to certified Minority Business Enterprises (MBEs) and Disadvantaged Business Enterprises (DBEs). The previously established policy excluded consideration of the cost of supplying structural steel for MBE/DBE participation since there were no structural steel manufacturers certified by MDOT. This exemption is no longer applicable since MBE/ DBE firms have been certified under this category.

The Administration reserves the right to verify the accuracy of the dollar value included on the Contractor's Affirmative Action Plan, including the value associated with the manufacture, supply, and installation of structural steel.

CONTRACT PROVISIONS
MBE DUAL CERTIFICATION

CONTRACT NO. DO2035180
1 of 1

CONTRACT PROVISIONS
MBE DUAL CERTIFICATION

Effective on October 1, 2009, Minority Business Enterprise (MBE) firms may elect to be dually certified as woman-owned businesses and as members of an ethnic or racial category. For purposes of achieving any gender or ethnic/racial MBE participation subgoals in a particular contract, an MBE firm that has dual certification may participate in the contract either as a woman-owned business or as a business owned by a member of a racial or ethnic minority group, **but not both**.

- (a) A firm must be listed in the MDOT MBE/DBE Directory with the gender category in order to be used to meet the gender subgoal.
- (b) A firm must be listed in the MDOT MBE/DBE Directory with an ethnic/racial category in order to be used to meet the ethnic/racial subgoal.
- (c) A firm must be listed in the MDOT MBE/DBE Directory with both the gender and ethnic/racial categories in order for a contractor to have the option of selecting which of those categories it will use for the firm on a State contract.
- (d) Contractors should designate whether the MBE firm will be used as a woman-owned business or as a business owned by a member of a racial/ethnic group before calculating the percentage of MBE participation goals and subgoals they intend to meet.

Maryland's MBE/DBE Directory will reflect the dual certification status beginning October 1, 2009. You can access the MBE/DBE Directory at <https://mbe.mdot.maryland.gov/directory/>.

CONTRACT PROVISIONS
APPRENTICESHIP TRAINING FUND

CONTRACT NO. DO2035180
1 of 5

CONTRACT PROVISIONS
APPRENTICESHIP TRAINING FUND

Effective July 1, 2013 State Law requires all contractors and subcontractors working on State prevailing wage projects with prevailing wage determinations to register (Apprenticeship Training Fund Site) with the Division of Labor and Industry Prevailing Wage Unit prior to the commencement of work and to make certain contributions toward improving and expanding apprenticeship programs in the State. In addition, registered apprenticeship programs and organizations that have registered apprenticeship programs that have been selected by contractors and subcontractors for contributions also are required to register with the Division of Labor and Industry Prevailing Wage Unit.

The State Apprenticeship Training Fund requires contractors and some subcontractors on public work contracts to make contributions to: (1) a registered apprenticeship program, (2) an organization that operates registered programs, or (3) the State Apprenticeship Training Fund.

The following information concerning the requirements of the apprenticeship training fund program are being provided for informational purposes only. It is the contractor's responsibility to contact the Maryland Department of Labor, Licensing and Regulation (DLLR), prior to commencement of any work, to determine how these provisions are being implemented and enforced by DLLR.

Definitions. The following terms have the meanings indicated.

(a) Terms Defined.

- (1) "Approved apprenticeship program" means an apprenticeship program or an organization with an apprenticeship program which has been registered with, and approved by, the Maryland Apprenticeship and Training Council or the United States Department of Labor.
- (2) "Commissioner" means the Commissioner of Labor and Industry.
- (3) "Covered craft" means a classification of workers listed in the prevailing wage determination applicable to a prevailing wage project.
- (4) "Fund" means the State Apprenticeship Training Fund.

Hourly Contribution Rate.

- (a) If a contractor participates in an apprenticeship training program for each covered craft, the contractor satisfies their obligation under State Finance and Procurement Article, §17-603(a)(1), Annotated Code of Maryland, by making contributions of at least 25 cents per person per hour.

CONTRACT PROVISIONS
APPRENTICESHIP TRAINING FUND

CONTRACT NO. DO2035180
2 of 5

- (b) If a subcontractor participates in an apprenticeship training program for each covered craft, the subcontractor satisfies their obligation under State Finance and Procurement Article, §17-604(a)(1), Annotated Code of Maryland, by making contributions of at least 25 cents per person per hour.
- (c) Contractors and subcontractors that do not participate in an apprenticeship training program shall pay at least 25 cents per person per hour for each employee in each covered craft on the prevailing wage project to a registered apprenticeship program, an organization that has a registered apprenticeship program, or the Fund.
- (d) Contractors and subcontractors who make contributions to the Fund shall do so on a monthly basis.
- (e) Contractors and subcontractors who make contributions to a registered apprenticeship program or an organization that has a registered apprenticeship program shall make contributions on a monthly basis or consistent with a collective bargaining agreement or other contractual arrangement.
- (f) If there is a prevailing wage determination that includes a fringe benefit contribution for apprenticeship that exceeds 25 cents per hour, a contractor or subcontractor that makes contributions to the Fund shall pay to the employee wages in the amount that the fringe benefit contribution for apprenticeship exceeds 25 cents per hour.

Contractor and Subcontractor Registration.

- (a) Contractors performing work on a prevailing wage project shall complete the registration process at the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>.
- (b) Subcontractors who are performing work valued at \$100,000 or more on a prevailing wage project shall complete the registration process at the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>.
- (c) Prior to the commencement of work, a registered contractor or registered subcontractor shall log onto the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> and complete the required project log information including:
 - (1) The prevailing wage project number;
 - (2) Contract value;
 - (3) Identification of subcontractors to perform work on the project and subcontract value amount;

CONTRACT PROVISIONS
APPRENTICESHIP TRAINING FUND

CONTRACT NO. DO2035180

3 of 5

- (4) Designation of the program or Fund where the contractor or subcontractor will make contributions; and
- (5) Any other information that the Commissioner requires.

Contractor and Subcontractor Notification to Subcontractors.

- (a) Contractors and subcontractors who hire subcontractors performing work valued at \$100,000 or more on a public work contract subject to the Maryland Prevailing Wage Law shall provide the subcontractors with written notice of the following requirements:
 - (1) Subcontractors shall complete the registration process at the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>;
 - (2) Prior to the commencement of work, a subcontractor shall log onto the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> and complete the required project log information including:
 - (a) The prevailing wage project number;
 - (b) Contract value;
 - (c) Identification of all subcontractors to perform work on the project and subcontract value amount;
 - (d) Designation of the program or Fund where the subcontractor will make contributions; and
 - (e) Any other information that the Commissioner requires; and
 - (f) Subcontractors performing work on a prevailing wage project valued at \$100,000 or more are required to make payments to approved apprenticeship programs or to the Fund for each employee employed in classifications listed on the prevailing wage determination.
- (b) Contractors and subcontractors shall retain a copy of the written notice required in §A of this regulation that was provided to covered subcontractors for inspection and review by the Commissioner for 3 years after the completion of their work on a public work project.

Contractor and Subcontractor Obligations Related to Contributions.

Contractors and subcontractors are required to:

- (a) Indicate on their prevailing wage payroll record their contributions under State Finance and Procurement Article, §17-603 or 17-604, Annotated Code of Maryland; and

CONTRACT PROVISIONS
APPRENTICESHIP TRAINING FUND

CONTRACT NO. DO2035180
4 of 5

- (b) Certify that the contributions were received by an approved apprenticeship program or the Fund.

Notification to Division of Labor and Industry of Changes to Designated Approved Apprenticeship Programs or Fund.

- (a) Contractors and subcontractors shall log onto the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> and indicate each approved apprenticeship program or the Fund to which it will make contributions.
- (b) If a contractor or subcontractor intends to change a designation, it shall log onto the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage> to indicate the change in designation 30 days prior to that change.

Approved Apprenticeship Program Obligations.

- (a) Upon notice from the Division of Labor and Industry that the approved apprenticeship program has been designated for contributions by a contractor or subcontractor, an approved apprenticeship program shall register on the Division of Labor and Industry's website at <https://www.dllr.state.md.us/prevwage>.
- (b) An approved apprenticeship program shall complete the requested information on contributions received from contractors and subcontractors for each covered craft for each prevailing wage project at the Division of Labor and Industry's website at <http://www.dllr.state.md.us/prevwage> on or before the last day of the month immediately following each calendar quarter.
- (c) Certify that all funds received are used solely for the purpose of improving or expanding apprenticeship training in the State.

Audit of an Approved Apprenticeship Program. The Commissioner may require an independent audit by a certified public accountant of an approved apprenticeship program to verify that contributions received are used consistent with this subtitle.

Enforcement Procedures.

- (a) The Commissioner may investigate whether State Finance and Procurement Article, Title 17, Subtitle 6, Annotated Code of Maryland, has been violated:
 - (1) On the Commissioner's own initiative;
 - (2) On receipt of a written complaint; or
 - (3) On referral from another State agency.

CONTRACT PROVISIONS
APPRENTICESHIP TRAINING FUND

CONTRACT NO. DO2035180
5 of 5

- (b) The Commissioner may require a contractor, subcontractor, or an approved apprenticeship program to produce records as part of its investigation.
- (c) The Commissioner may enter a place of business to:
 - (1) Interview individuals; or
 - (2) Review and copy records.
- (d) If after an investigation, the Commissioner determines that there is a violation of State Finance and Procurement Article, Title 17, Subtitle 6, Annotated Code of Maryland, or a regulation adopted to carry out the title, the Commissioner shall issue an administrative charge that shall:
 - (1) Describe in detail the nature of the alleged violation;
 - (2) Cite the provision of law or regulation that is alleged to have been violated; and
 - (3) State the penalty, if any.
- (e) Within a reasonable amount of time after the issuance of the administrative charge, the Commissioner shall send a copy of the administrative charge to the alleged violator by certified mail with notice of the opportunity to request a hearing.
- (f) Within 15 days after the alleged violator receives the administrative charge, the employer may submit a written request for a hearing on the administrative charge and proposed penalty.
- (g) If a hearing is not requested within 15 days, the administrative charge, including any penalties, shall become a final order of the Commissioner.
- (h) If there is a request for a hearing, the Commissioner may delegate the hearing to the Office of Administrative Hearings in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.
- (i) A proposed decision of an administrative law judge shall become a final order of the Commissioner unless, within 15 days of the issuance of the proposed decision:
 - (1) The Commissioner orders review of the proposed decision; or
 - (2) The alleged violator submits to the Commissioner a written request for review of the proposed decision.
- (j) After review of the proposed decision under §I of this regulation, with or without a hearing on the record, the Commissioner shall issue an order that affirms, modifies, or vacates the proposed decision.

CONTRACT PROVISIONS
MBE/DBE COMPLIANCE FIELD MEETING

CONTRACT NO. DO2035180
1 of 1

MBE/DBE COMPLIANCE FIELD MEETING

A MBE/DBE compliance Field Meeting will be conducted to review the responsibilities of the Administration and the Contractor's personnel relative to MBE/DBE Compliance and documentation. The meeting will be held within two weeks after starting work on the project.

The Construction Project Engineer, who will notify the following of the date, time and location, will arrange the meeting. At least one week advanced notice will be required.

(a) Administrative Representatives.

- (1) Director, Office of Equal Opportunity or Designee
- (2) District Equal Opportunity Officer
- (3) Regional Constructional Engineer
- (4) Construction Project Engineer
- (5) Construction Inspection Division Inspector

(b) Contract Representatives.

- (1) Superintendent - Prime Contractor
- (2) Equal Opportunity Officer - Prime Contractor
- (3) Owner/Superintendent/Foreman MBE/ DBE - Subcontractor

The Construction Project Engineer and Equal Opportunity Representative will jointly conduct the meeting. The Contractor shall notify the appropriate subcontractors and ensure their attendance.

CONTRACT PROVISIONS
TRAFFIC CONTROL PLAN CERTIFICATION

CONTRACT NO. DO2035180
FAP NO. N/A
1 of 1

TRAFFIC CONTROL PLAN CERTIFICATION

PRIOR TO THE COMMENCEMENT OF WORK ON THIS PROJECT, THE SUCCESSFUL BIDDER WILL BE REQUIRED TO COMPLETE A TRAFFIC CONTROL PLAN CERTIFICATION CONTAINING THE INFORMATION SHOWN BELOW. THE CERTIFICATION FORM WILL BE PROVIDED TO THE SUCCESSFUL BIDDER UPON AWARD OF THE CONTRACT.

The Administration's Traffic Control Plan (TCP) has been reviewed and the following course of action shall be followed:

Option 1 _____

The TCP is accepted and shall be used on this project.

Option 2 _____

The TCP is accepted; however, revisions and/or additions shall be submitted for approval in conformance with the Administration's Specifications 104.01 and TC-2.10. It is understood that no additional sum of money is payable to the Contractor if the Administration accepts Option 2.

Option 3 _____

The TCP is not accepted and revision shall be submitted for approval in accordance with the Administration's Specifications 104.01 and TC-2.10. It is understood that no additional sum of money is payable to the Contractor if the Administration accepts Option 3.

It is understood that the effective implementation of the approved TCP is the responsibility of the Contractor. Minor modifications may be made by the Traffic Manager if field conditions warrant and prior concurrence is obtained from the Engineer. Significant changes to the TCP shall be submitted to the Engineer in writing, for approval, in conformance with the Administration's Specifications 104.01.

(DATE)

(SIGNATURE)

(PRINT SIGNATURE)

(TITLE)

**CONTRACT PROVISIONS
PREVAILING WAGE INSTRUCTIONS**

CONTRACT NO. DO2035180
1 of 4

**PREVAILING WAGE
INSTRUCTIONS FOR THE CONTRACTOR**

PAYROLLS.

Non-Federally Funded Contracts. The Division of Labor and Industry, Prevailing Wage Unit is requiring that all certified payroll records be submitted electronically. For instructions on how to register and submit go online to www.dllr.state.md.us/prevwage and follow the instructions for registering. The regulation addressing this change can be found at COMAR 21.11.11.02. For Non-Federally funded projects, which include prevailing wage rates, the prime Contractor and each subcontractor, shall submit the certified payroll electronically and provide one hard copy to the Project Engineer. All wages shall be paid in conformance with the State Finance and Procurement Article, Section 17-201-17-226 of the Annotated Code of Maryland and the Fair Labor Standards Amendments of 1974 (P.L. 93259). If the award amount of a Non-Federally funded job is less than \$500,000, the project will be exempt from prevailing wage requirements.

A review has been made of the wage conditions in the locality and, based on the information available, the wage rates and fringe payments listed are determined by the Commissioner of the Department of Labor and Industry to be prevailing for the Contract for the described classes of labor in conformance with the law. It shall be the responsibility of the Contractor to fully comply with the law and to contact the Office of the Commissioner of Labor and Industry for interpretation of the provisions of the law.

Federally Funded Contracts. For Federally funded projects, the prime Contractor and each subcontractor shall submit one copy of the certified payroll to the Project Engineer.

General Requirements for Federally and Non-Federally Funded Contracts. All payrolls are subject to the following requirements:

- (a) All payrolls shall be numbered, beginning at No. 1, and consecutively numbered through the end of the Contract.
- (b) Contract and FAP numbers shall be shown on all payrolls (as applicable).
- (c) All payroll submissions shall include:
 - (1) Federally Funded – employees’ full name, classification, and Individual Identifying Number (IIN) e.g. (last four digits of social security number). Refer to FHWA 1273 (IV),(3),(b)1) for further requirements related to weekly payrolls.
 - (2) Non-Federally Funded – employees’ full name, classification, address and social security number.

CONTRACT PROVISIONS
PREVAILING WAGE INSTRUCTIONS

CONTRACT NO. DO2035180
2 of 4

- (d) All payrolls shall show the employee's basic hourly wage rate, overtime rate (if applicable), and the number of hours worked (tabulated both daily and weekly).
- (e) When fringe benefits are required, indicate separately the amount of employer contributions to fringe benefit funds and/or programs. The fringe benefits shall be individually identified, but may be tabulated on a separate sheet. When required fringe benefits are paid in cash, add the required fringe benefit amount to the basic hourly rate to obtain the total prevailing wage rate for the employee.
- (f) The employee's net pay and the itemized deductions shall be included in all payrolls.
- (g) A Contractor may make deductions that are required by law or required by a collective bargaining agreement (between the Contractor and a bona fide labor organization). Deductions are also permitted if they are identified in a written agreement between the employee and employer that was made at the beginning of employment, provided that the Contractor presents the agreement to the Administration before the employee begins working on the Contract. Each payroll shall also include the U.S. Department of Labor and Hour Public Contracts Division Statement of Compliance Form WH-347 (or its equivalent), signed by an appropriate official of the Contractor/subcontractor. The Contractor's name, address, and telephone number shall also be shown.
- (h) On Non-Federally funded projects, all apprentices shall be registered with the Maryland Apprenticeship and Training Council.
- (i) Contractors employing a classification of worker for which a wage rate was not included on the original wage decision, shall submit to either the Wage and Hour Team (Federally Funded) or Department of Labor and Licensing (DLLR), (Non-Federally Funded), a request for an additional classification and rate prior to the employee's employment at the project.
- (j) Payrolls for Non-Federally Funded projects shall be submitted within 14 calendar days after the end of each payroll period.
- (k) Payrolls for Federally Funded projects shall be submitted within 7 calendar days after the end of each payroll period.
- (l) Contractors and Subcontractors are required to maintain complete social security numbers and home addresses for employees. Government agencies are entitled to request or review all relevant payroll information, including social security numbers and addresses of employees. Contractors and Subcontractors are required to provide such information upon request.

CONTRACT PROVISIONS
PREVAILING WAGE INSTRUCTIONS

CONTRACT NO. DO2035180
3 of 4

OVERTIME.

Non-Federally Funded Contracts. Overtime rates shall be paid by the prime Contractors and subcontractors under their Contracts and agreements with their employees, which in no event shall be less than time and a half the prevailing hourly rate of wages for all hours worked in excess of ten hours in any one calendar day or forty hours in any one calendar week and work performed on Sundays and legal holidays.

Fringe benefits shall be paid for all hours worked, including the overtime hours. However, the fringe benefit amounts may be excluded from the half time premium due as overtime compensation.

Federally Funded Contracts. Overtime rates shall be paid as specified in Form FHWA 1273. Fringe benefits shall be paid for all hours worked, including the overtime hours. However, the fringe benefit amounts may be excluded from the half time premium due as overtime compensation.

PENALTIES.

Non-Federally Funded Contracts. When the Contractor is delinquent in submitting payroll records, processing of partial payment estimates will be held in abeyance, pending receipt of the records. The Contractor shall be liable to the Administration for liquidated damages in the amount of \$10.00 for each calendar day the records are late.

The Contractor shall be liable to the Administration for liquidated damages in the amount of \$20.00 for each day that an employee is paid less than the prevailing wage.

Federally Funded Contracts. When the Contractor is delinquent in submitting payroll records, processing of partial payment estimates will be held in abeyance pending receipt of the records.

ADDITIONAL CLASSIFICATIONS.

Federally Funded Contracts. If the wage determination lacks a necessary classification the Prime Contractor is responsible to submit the request for the additional classification, with a proposed rate, to the State Highway Administration's Wage and Hour Team. The request is to include a copy of the projects wage determination.

Non-Federally Funded Contracts. If the wage determination lacks a necessary classification the Prime Contractor is responsible to submit the request for the additional classification, with a proposed rate, to the Department of Labor and Licensing (DLLR).

**CONTRACT PROVISIONS
PREVAILING WAGE INSTRUCTIONS**

CONTRACT NO. DO2035180
4 of 4

INQUIRIES.

Request for information or questions shall be addressed to:

Maryland State Highway Administration
Office of Construction
Wage and Hour Team
7450 Traffic Drive, Building #4
Hanover, MD 21076
or
Email: wageandhourteam@sha.state.md.us

STATE OF MARYLAND

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
DIVISION OF LABOR AND INDUSTRY
PREVAILING WAGE SECTION
1100 N. Eutaw Street, Room 607
Baltimore, MD 21201
(410) 767-2342**

The wage rates to be paid laborers and mechanics for the locality described below is announced by order of Commissioner of Labor and Industry.

It is mandatory upon the successful bidder and any subcontractor under him, to pay not less than the specific rates to all workers employed by them in executing contracts in this locality. Reference: Annotated Code of Maryland State Finance and Procurement, Section 17-201 thru 17-226.

These wage rates were taken from the locality survey of 2018 for Dorchester County, issued pursuant to the Commissioner's authority under State Finance and Procurement Article Section 17-209, Annotated Code of Maryland or subsequent modification.

****Note:** If additional Prevailing Wage Rates are needed for this project beyond those listed below, contact the Prevailing Wage Unit. Phone: (410) 767-2342, email: prevailingwage@dldr.state.md.us.

Name and Title of Requesting Officer: George Papaspyrou - Procurement Officer

Department, Agency or Bureau:

SHA/OHD

707 North Calvert St Baltimore, MD 21202

Project Number

DO2035180

Location and Description of work:

Dorchester County: MD 331 over a Branch of the Nanticoke River near Vienna, Maryland

Determination Number

42307

Date of Issue: Aug 30, 2019

HIGHWAY CONSTRUCTION

CLASSIFICATION	MODIFICATION REASON	BASIC HOURLY RATE	BORROWED FROM	FRINGE BENEFIT PAYMENT
CARPENTER	AD	\$18.17	047	\$2.28
CEMENT MASON	AD	\$27.15		\$9.77
ELECTRICIAN	AD	\$31.95	045	\$10.90
IRONWORKER - FENCE ERECTOR	AD	\$27.05	047	\$0.00
IRONWORKER - REINFORCING	AD	\$14.00	047	\$1.00
POWER EQUIPMENT OPERATOR - ASPHALT DISTRIBUTOR	AD	\$20.00		\$3.80
POWER EQUIPMENT OPERATOR - BACKHOE	AD	\$24.00	039	\$7.68
POWER EQUIPMENT OPERATOR - BOOM TRUCK	AD	\$22.50		\$4.08
POWER EQUIPMENT OPERATOR - BROOM / SWEEPER	AD	\$15.00		\$2.86
POWER EQUIPMENT OPERATOR - BULLDOZER	AD	\$21.67		\$3.77
POWER EQUIPMENT OPERATOR - CRANE	AD	\$34.70	047	\$15.40 a

POWER EQUIPMENT OPERATOR - EXCAVATOR	AD	\$25.00	047	\$1.56
POWER EQUIPMENT OPERATOR - GRADALL	AD	\$23.00		\$4.25
POWER EQUIPMENT OPERATOR - GUARD RAIL POST DRIVER	AD	\$20.00		\$6.30
POWER EQUIPMENT OPERATOR - LOADER	AD	\$20.85		\$4.60
POWER EQUIPMENT OPERATOR - MECHANIC	AD	\$27.50		\$10.80
POWER EQUIPMENT OPERATOR - MILLING MACHINE	AD	\$18.23		\$4.46
POWER EQUIPMENT OPERATOR - PAVER	AD	\$15.00		\$3.02
POWER EQUIPMENT OPERATOR - ROLLER - ASPHALT	AD	\$16.76		\$2.49
POWER EQUIPMENT OPERATOR - ROLLER - EARTH	AD	\$21.70		\$4.38
POWER EQUIPMENT OPERATOR - SCRAPER	AD	\$23.00	047	\$5.18 a
POWER EQUIPMENT OPERATOR - SCREED	AD	\$20.48		\$2.88
POWER EQUIPMENT OPERATOR - SKID STEER (BOBCAT)	AD	\$16.31		\$2.14
TRUCK DRIVER - DUMP	AD	\$18.79		\$3.09
TRUCK DRIVER - FLATBED	AD	\$20.22		\$5.70
TRUCK DRIVER - LOWBOY	AD	\$18.00	039	\$7.68
TRUCK DRIVER - TANDEM	AD	\$25.00		\$0.00

LABORER GROUP II

LABORER - ASPHALT RAKER	AD	\$15.14		\$1.75
LABORER - COMMON	AD	\$15.14		\$1.75
LABORER - CONCRETE PUDDLER	AD	\$15.14		\$1.75
LABORER - CONCRETE TENDER	AD	\$15.14		\$1.75
LABORER - CONCRETE VIBRATOR	AD	\$15.14		\$1.75
LABORER - DENSITY GAUGE	AD	\$15.14		\$1.75
LABORER - FIREPROOFER - MIXER	AD	\$15.14		\$1.75
LABORER - FLAGGER	AD	\$15.14		\$1.75
LABORER - GRADE CHECKER	AD	\$15.14		\$1.75
LABORER - HAND ROLLER	AD	\$15.14		\$1.75
LABORER - JACKHAMMER	AD	\$15.14		\$1.75
LABORER - LANDSCAPING	AD	\$15.14		\$1.75
LABORER - LAYOUT	AD	\$15.14		\$1.75
LABORER - LUTEMAN	AD	\$15.14		\$1.75
LABORER - MORTAR MIXER	AD	\$15.14		\$1.75
LABORER - PLASTERER - HANDLER	AD	\$15.14		\$1.75
LABORER - TAMPER	AD	\$15.14		\$1.75

LABORERS GROUP I

LABORER - AIR TOOL OPERATOR	AD	\$16.39		\$1.53
LABORER - ASPHALT PAVER	AD	\$16.39		\$1.53
LABORER - BLASTER - DYNAMITE	AD	\$16.39		\$1.53
LABORER - BURNER	AD	\$16.39		\$1.53
LABORER - CONCRETE SURFACER	AD	\$16.39		\$1.53
LABORER - HAZARDOUS MATERIAL HANDLER	AD	\$16.39		\$1.53
LABORER - MASON TENDER	AD	\$16.39		\$1.53
LABORER - PIPELAYER	AD	\$16.39		\$1.53
LABORER - SCAFFOLD BUILDER	AD	\$16.39		\$1.53

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180
1 of 8

CONTRACTOR AFFIRMATIVE ACTION PROGRAM

1. GENERAL

- a. The Contractor shall cooperate with the Maryland Department of Transportation in carrying out its equal opportunity obligations and in the Department's review of the Contractor's activities performed under this contractual agreement.
- b. All contractors shall comply with the Governor's Code of Fair Practices, Promulgated July, 1976. The Contractor shall include these requirements in every subcontract with such modifications of language as is necessary to make these provisions binding on the subcontractor.
- c. All contractors shall comply with Maryland Department of Transportation Minority Business Enterprise Program requirements.

2. APPLICABILITY

- a. The Maryland Department of Transportation Contractor Affirmative Action/Equal Employment Opportunity Program requirements are applicable to all contractors doing business with the Maryland Department of Transportation.
- b. The Maryland Department of Transportation Minority Business Enterprise Program requirements are applicable to construction contracts in excess of \$100,000.

3. DEFINITIONS

- a. Affirmative Actions - The efforts exerted toward achieving equal employment opportunity through positive, aggressive and continuous results-oriented measures to correct past and present discriminating practices and their effects on the conditions and privileges of employment.
- b. Contractor/Subcontractor - The individual, partnerships, firm or corporation undertaking the execution of work under the terms of a contract and acting directly or through his agents or employees.
- c. Corrective Action - A contractor's written and signed commitment outlining specific actions to be taken with time limits, goals, etc., to correct a violation of applicable EEO regulations.
- d. Discrimination - A distinction in treatment, whether intentional or unintentional, based on political or religious opinion or affiliation, race, color, creed or national origin or sex, physical or mental handicap or age, except where sex, handicap or age involves a bona fide job requirement.
- e. Equal Employment Opportunity Officer - A designated employee of the Contractor whose responsibility it shall be to implement and maintain the Affirmative Action Plan.
- f. "Good Faith Effort" - A results-oriented positive action designed to achieve Affirmative Action objectives or goals.
- g. Personnel Actions - All decisions respecting employment including, but not limited to hiring, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180
2 of 8

or other forms of compensation, and selection for training to include apprenticeship, pre-apprenticeship or on-the-job training.

4. LEGAL MANDATES

- a. Title VI, Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in all programs and activities which receive Federal Financial Aid. Employment discrimination is prohibited if a primary purpose of Federal assistance is a provision of employment, e.g., apprenticeship, training, work study, or similar programs. Revised guidelines in 1973 prohibit discriminatory employment practices in all programs if such practices cause discrimination in services provided to beneficiaries of the program.
- b. Title VII, Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972). Title VII prohibits discrimination because of race, color, religion, sex or national origin, in any term, condition, or privilege of employment.
- c. Executive Order 11246 (as amended). This order, issued by the President in 1965, requires Equal Employment Opportunity/Affirmative Action Programs by all Federal contractors and subcontractors. It also requires that firms with contracts over \$50,000.00 and 50 or more employees develop and implement written programs, which are to be monitored by the Federal Office of Contract Compliance. Specific requirements for such result oriented programs are identified in the Revised Order # 4 issued by the Federal Office of Contract Compliance, U.S. Department of Labor. These requirements include identifying areas of minority and female under-utilization, numerical promotional and hiring goals, and other actions to increase minority employment in classifications where they are currently under-utilized.
- d. The Age Discrimination Act of 1967 prohibits employers of 25 or more persons from discriminating against persons 40-65 years of age in any area of employment due to their age.
- e. National Labor Relations Act of 1935. Discrimination on the basis of race, religion, sex, or national origin constitutes an unfair labor practice. It shall be unlawful under this Act for employers to participate with unions in the commission of any discriminatory practices or to practice discrimination in a manner which gives rise to racial, or other division, amongst employees to the detriment of organized union activity. It shall be unlawful for unions to exclude individuals discriminatorily from union memberships, thereby causing them to lose job opportunities, to discriminate in the representation of union members or non-members in collective bargaining, in the processing of grievance, or in any other respect which may cause or attempt to cause employers to enter into discriminatory agreements, or otherwise discriminate against members and non-members.
- f. Governor's Code of Fair Practices for the State of Maryland (Amended). The Governor of Maryland issued a revised Code of Fair Practices which was promulgated March 3, 1988, in recognition of the State's responsibility to root out the evils of discrimination on the basis of race, color, creed, national origin, sex and age. This Code was amended so as to be in compliance with Federal mandates regulating laws pertinent to Equal Employment Opportunity/Affirmative Action.
- g. Rehabilitation Act of 1973 (Public Law 93-112). This law provides a statutory basis for the Rehabilitation Services Administration and to authorize programs to promote and expand employment opportunities in the public and private sectors for handicapped individuals.

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180

3 of 8

- h. Article 78A, Section 7A, Annotated Code of Maryland provides for nondiscrimination in State construction contracts and subcontracts. This provision obligates the Contractor not to discriminate in any manner against any employee or applicant for employment because of race, creed, color, or national origin and obligates subcontractors to the same.
- i. Other Laws. Employment discrimination has also been ruled by courts to be prohibited by the Civil Rights Acts of 1866 and 1870, the equal protection clause of the Fourteenth Amendment of the Constitution of the United States, and the Equal Pay Act of 1963. Action under these laws on behalf of individuals or groups may be taken by individuals, private organizations, trade unions, or other groups.

5. ASSIGNMENT OF RESPONSIBILITIES

- a. The Contractor will designate an Equal Employment Opportunity Officer. He/she will have the responsibility of implementing our Affirmative Action Plan. He/she will coordinate, advise and assist management and other key officials. He/she will render periodic reports to the responsible executives relative to the state of progress and make appropriate recommendations along these lines to the executives relative to the state of progress and make appropriate recommendations along these lines to the executives of this project.
- b. The name of the EEO Officer, telephone number and address where he/she can be reached concerning any acts or alleged acts of discrimination, will be posted on the bulletin board at the home office as well as on the bulletin boards on all job sites.

6. DISSEMINATION OF POLICY

- a. The Contractor will take appropriate steps to insure that all employees are advised of its policy of nondiscrimination of its interest in actively and affirmatively providing equal employment opportunity for all citizens. The steps include:
 - (1) Periodic meetings of supervisory and personnel office employees to be conducted at least every six months so that our EEO policy and plan may be revised and explained.
 - (2) All new supervisory and personnel office employees to be made aware of our EEO policy and plan as soon as practicable, but certainly within thirty (30) days following the date the first reporting for duty.
 - (3) Making our EEO policy known to all employees, prospective employees, and potential sources of employees, through schools, employment agencies, labor unions, college placement officers, etc., by taking the following actions:
 - (a) Notices and posters setting forth our EEO policy will be placed in areas readily accessible to employees and applicants for employment.
 - (b) Our EEO policy and the procedure for implementing the EEO policy will be brought to the attention of employees through meetings, employee handbooks, or other appropriate means.

7. RECRUITMENT

- a. The Contractor will include in all advertising the following notation: "An Equal Opportunity Employer." We will insert all such advertisements in newspapers or other publications having

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180
4 of 8

large circulation among minorities and females in the area from which the project work is derived.

- b. We will, unless precluded by a valid collective bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority and female applicants, including, but not limited to, State employment agencies, school, college, and minority/female organizations, i.e., the Urban League, NAACP, etc. To meet this requirement, we shall identify sources of potential minority/female employees and establish with such sources procedures whereby minority/female applicants may be referred to us for employment consideration.
- c. We will develop procedures for promoting the employment of minority/female youth on an after-school, summer and vacation basis.
- d. We will encourage our employees to refer minority/female applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority/female applicants will be discussed with employees.

8. PERSONNEL ACTIONS

- a. To avoid discrimination in any of our personnel actions, the following procedures will be followed:
 - (1) We will conduct periodic inspections of projects sites to insure that working conditions and employee facilities do not indicate discriminatory practices.
 - (2) We will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
 - (3) We will periodically review personnel actions in depth to determine whether there is any evidence of discrimination. Where evidence is found, we will promptly take corrective action.
 - (4) We will investigate all complaints of alleged discrimination and shall attempt to resolve such complaints. Additionally, if the investigation indicates that the discrimination may affect persons other than the complainant, appropriate corrective actions will include other persons. Upon completion of each investigation, we will inform every complainant of all avenues of appeal.

9. TRAINING AND PROMOTION

- a. To eliminate any discrimination in training and promotion, the following actions will be taken:
 - (1) We will assist in locating, qualifying, and increasing the skills of minority/female employees and applicants for employment.
 - (2) Consistent with our employment requirements and as permissible under State regulations, we will make full use of training programs, i.e., preapprenticeship, apprenticeship, and on-the-job training programs for the geographical area of contract performance.

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180
5 of 8

- (3) We will advise employees and applicants for employment of available training programs and entrance requirements for the programs.
- (4) We will periodically review the training and promotional potential of minority/female employees and shall encourage eligible employees to apply for such training and promotions.

10. UTILIZATION OF UNIONS

- a. In carrying out our Affirmative Action Plan, we will use good faith efforts to obtain the cooperation from unions we rely on, in whole or part, as a source of employees to increase opportunities for minority/female groups. We, either directly or through a contractor's association acting as our agent, will include the procedures set forth below:
 - (1) Use good faith efforts to develop, in cooperation with the unions, joint training programs aimed at qualifying more minorities/females for membership in the unions and increasing their skills so they may qualify for higher paying employment.
 - (2) Incorporate an Equal Employment Opportunity clause into all union agreements so that they shall be contractually obligated not to discriminate in the referral of job applicants.

11. UTILIZATION OF SUBCONTRACTORS

- a. We will use good faith efforts to employ subcontractors whose employees reflect minority/female groups approximately equal to the number available in the current labor pool population, or owned by minority/female.
- b. We will use good faith efforts to assure that all subcontractors comply with equal employment obligations as defined in the amended Code of Fair Practices.

12. RECORDS AND REPORTS

- a. In accordance with the Governor's Code, Article III, Section A and C (2), we will keep such records as are necessary to determine compliance with our equal opportunity obligations. The records kept shall be designed to indicate:
 - (1) The number of minority/female and other persons employed in each work classification of the project.
 - (2) The progress and efforts being made in cooperation with unions, if any, to increase minority/female employment opportunities.
 - (3) The progress and efforts being made in locating, hiring, training, qualifying and upgrading minority/female employees.
 - (4) The progress and efforts being made in securing the services of minority/female subcontractors.
- b. All such records will be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Department of Transportation.

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180
6 of 8

- c. We will submit to the Administration a monthly report for the first three months after construction begins and, thereafter, upon request for the duration of the project. This report shall indicate the number of minority/female employees currently engaged in each work classification.

13. MONITORING

- a. We will periodically evaluate our Affirmative Action Plan and the results achieved to insure that the plan is in compliance with our commitments.

**SUGGESTED GOALS FOR TIMETABLES
FOR
MINORITY WORKHOUR UTILIZATION**

For all trades, the following goals and timetables, as appropriate, for minority-workhour utilization shall be applicable:

- (1) Baltimore Metropolitan SMSA - this area (Region 1) includes Anne Arundel, Baltimore, Carroll, Harford, Howard Counties and Baltimore City. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1980 to October 3, 1980
After October 3, 1980

23.5% - 27.5%
23.0%

FEMALES

From August 16, 1979 to August 15, 1980
After August 16, 1980

6.9%
6.9%

- (2) Eastern Shore Maryland NON-SMSA - this area (Region II) includes Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females, respectively, and shall apply to all trades.

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180
7 of 8

UTILIZATION:

MINORITIES

From January 1, 1980 to October 3, 1980	21% - 24%
After October 3, 1980	23.8%

FEMALES

From August 16, 1979 to August 15, 1980	6.9%
From August 16, 1980	6.9% (3)

- (3) Southern Maryland NON-SMSA - this area (Region III) includes Calvert, Frederick, Washington and St. Mary's Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1980 to October 3, 1980	25%
After October 3, 1980	25.2%

FEMALES

From August 16, 1979 to August 15, 1980	6.9%
After August 16, 1980	6.9%

- (4) Washington, D.C. Metropolitan SMSA - this area (Region IV) includes Charles, Montgomery and Prince Georges Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

After October 3, 1980	28.0%
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FEMALES

From August 16, 1979 to August 15, 1980	6.9%
After August 16, 1980	6.9%

CONTRACT PROVISIONS
CONTRACTOR AFFIRMATIVE ACTION PROGRAM

CONTRACT NO. DO2035180
8 of 8

- (5) Western Maryland NON-SMSA - this area (Region V) includes Allegany and Garrett Counties. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1980 to October 3, 1980	3.0%
After October 3, 1980	4.8%

FEMALES

From August 16, 1979 to August 15, 1980	6.9%
After August 16, 1980	6.9%

- (6) Wilmington Delaware SMSA - this area (Region VI) includes Cecil County only. The total distribution of work hours (actual work hours performed on the job) for minorities and females shall be consistent with the following utilization goals for minorities and females, respectively, and shall apply to all trades.

UTILIZATION:

MINORITIES

From January 1, 1978 thru October 3, 1980	15% - 18.5%
After October 3, 1980	12.3%

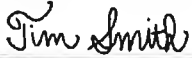
FEMALES

From August 16, 1979 to August 15, 1980	6.9%
After August 16, 1980	6.9%

Maryland Department of Transportation
State Highway Administration
High Visibility Safety Apparel Policy

This policy replaces all pre-existing high visibility apparel policies.

Recommended by:



Tim Smith, P.E.
Deputy Administrator
Chief Engineer for Operations

Approved by:



Gregory A. Slater
Administrator

Date:

Date:

1. BACKGROUND

- 1.1 Research demonstrates that high visibility safety apparel has a significant impact on the safety of employees who work on highways and rights-of-way.
- 1.2 In addition, high visibility safety apparel may help to prevent injuries and accidents and to make highway workers more visible to the motoring public, which ultimately improves traffic safety.

2. STATEMENT OF POLICY

- 2.1 The High Visibility Safety Apparel Policy provides a standardized apparel program.
- 2.2 The program seeks to improve the visibility of all persons who work on Maryland Department of Transportation State Highway Administration (MDOT SHA) highways and rights-of-way.
- 2.3 All safety apparel shall contain the appropriate label identifying the class.
- 2.4 Compliance with this policy was effective as of January 1, 2019.

3. APPLICABILITY

- 3.1 This policy applies to all MDOT SHA employees and all other persons who work on Maryland state highways and rights-of-way.
- 3.2 This policy exceeds the standards referenced in the Maryland Manual on Uniform Traffic Control Devices (MD MUTCD) 2011 Edition.
- 3.3 All workers shall wear, at a minimum, a single ANSI/ISEA 107/2015 Class 3 safety garment on the upper torso.
- 3.4 All ANSI Class 3 safety garments must be worn fully fastened to meet ANSI/ISEA 107/2015 specifications.
- 3.5 MDOT SHA employee garments shall have a fluorescent yellow-green background material color and be the outermost garment worn.
- 3.6 MDOT SHA employee garment retro-reflective material color shall be silver or white and shall be visible at minimum distance of 1,000 feet. The retro-reflective safety

apparel shall be designed to clearly recognize and differentiate the wearer as a person from the surrounding work environment. The retro-reflective material may be contrasted by fluorescent orange background material not to exceed one-and-one-half inches on either side of the retro-reflective material.

- 3.7 SPECIAL NOTE: A breakaway vest may be considered for certain tasks to prevent entanglement.
- 3.8 Non-MDOT SHA workers' garments shall be approved ANSI/ISEA 107/2015 Class 3 for wear on the upper torso that is either fluorescent orange-red or fluorescent yellow-green background material color and must be the outermost garment worn.
- 3.9 Non-MDOT SHA workers' garments retro-reflective material color shall be orange, yellow, white, silver, yellow-green, or fluorescent version of these colors, and be visible at a minimum distance of 1,000 feet. The retro-reflective safety apparel shall be designed to clearly recognize and differentiate the wearer as a person from the surrounding work environment.
- 3.10 For all MDOT SHA and non-MDOT SHA workers applicable to this Policy, it is recommended that all ANSI Class 3 safety garments under this Policy be cared for according to the manufacturer specifications.

4. REFERENCES

- 4.1 ANSI/ISEA 107/2015 standard — American National Safety Institute/International Safety Equipment Association
- 4.2 MUTCD 2011 -Manual for Uniform Traffic Control Devices - Sections 6D.03 Paragraph 4 and 6E.02
- 4.3 Visibility Research — The VCTR 1989 report concludes that fluorescent colors, when compared with non-fluorescent colors, enhance the daytime conspicuity of worker clothing.

5. DEFINITIONS

- 5.1 Highways — all Maryland roadways owned and maintained by MDOT SHA .
- 5.2 High Visibility Safety Apparel (HVSA) — Personal protective safety clothing intended to ensure roadside workers stand-out to drivers during both daytime and nighttime, and other low-light condition usage. The outermost high-visibility garment worn by MDOT SHA and non-MDOT SHA workers who work on MDOT SHA highways and rights-of-way.
- 5.3 Retro-reflective Material – Material that reflects and returns a relatively high proportion of light in a direction close to the direction from which it came.
- 5.4 Background Material – Colored fluorescent material intended to be highly visible, but when not used in conjunction with retro-reflective material as intended, are not compliant with the requirements of this standard for retro-reflective material.
- 5.5 Breakaway – A garment system that allows workers to quickly remove the vest for additional safety around extreme traffic hazards, moving machinery, or equipment.

SPECIAL PROVISIONS
PROJECT DESCRIPTION

CONTRACT NO. DO2035180
1 of 1

PROJECT DESCRIPTION

This project, located in Dorchester County, is for the replacement of Small Structure No. 09045X0 on MD 331 carrying a Tributary of Nanticoke River.

The work will consist of the following:

- (a) Removal of the existing double corrugated metal pipe culvert and endwalls.
- (b) Placement of a new double 36 inch reinforced concrete pipe culvert.
- (c) Placement of new precast headwalls at each end of the culvert.
- (c) Minor approach roadway paving.
- (d) Relocation of an existing lighting cable.
- (e) Placement of w-beam traffic barriers, signing, and pavement markings.

SPECIFICATIONS

All work on this project shall conform to the Maryland Department of Transportation, State Highway Administration's Specifications entitled, "Standard Specifications for Construction and Materials" dated July 1, 2019, revisions thereof, or additions thereto, and the Special Provisions included in this Invitation for Bids.

PROJECT SCHEDULE

The required project schedule for this project is Type A - Bar Chart.

EMPLOYMENT AGENCY

The Maryland Department of Human Resources is located at:

Dorchester County
Dorchester County Career Center
627-A Race Street
Cambridge, MD 21613
Telephone: 410-901-4250
Fax: 410-221-1817
cambridge@dllr.state.md.us

NOTICE TO CONTRACTOR

PROJECT SCHEDULE. All Project Schedules shall conform to Section 109.

NOTICE TO BIDDERS. The Proposal Form Packet in Bid Express requires the following information be submitted for the Bidder and each firm quoting or considered as subcontractors:

- (a) Name of firm.
- (b) Address of firm.
- (c) MBE, Non-MBE, DBE, or Non-DBE.
- (d) Age of firm.
- (e) Annual gross receipts per last calendar year.

AFFIRMATIVE ACTION PLAN (AAP) CONTRACT GOALS. In order to be in compliance with the revised MBE/DBE laws effective September 27, 2011 or later, the bidder is required to complete the AAP information within the MDOT MBE/DBE Form A and Form B (Parts 2 and 3) of the Proposal Form Packet for State, Federal, and State Small Business Reserve Procurements. Failure to complete the information may be grounds for the bid to be declared non-responsive.

HIGH VISIBILITY SAFETY APPAREL POLICY. The Maryland Department of Transportation's State Highway Administration (MDOT SHA) has updated the High Visibility Safety Apparel Policy which is included in this Contract. Contractor shall comply to the policy fully for the parts Contractor is responsible for.

BOOK OF STANDARDS. The Book of Standards for Highway and Incidental Structures is only available on the Administration's Internet Site at www.roads.maryland.gov. The Book of Standards can be located by clicking on Business; Business Standards and Specifications; Construction and Material Standards and Specifications; and Book of Standards for Highway and Incidental Structures.

2019 STANDARD SPECIFICATION FOR CONSTRUCTION AND MATERIALS BOOK. The 2019 Standard Specifications for Construction and Materials Book is only available on the Administration's Internet Site at www.roads.maryland.gov. The 2019 Specification Book can be located by clicking on Business; Business Standards and Specifications; Construction and Material Standards and Specifications; and Standard and Supplemental Specifications for Construction and Materials.

PAYMENT OF STATE OBLIGATIONS. Electronic funds transfer will be used by the State to pay Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

By submitting a response to this solicitation, the Bidder/Offeree agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Bidder/Offeree shall register using the attached form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

SPECIAL PROVISIONS
NOTICE TO CONTRACTOR

CONTRACT NO. DO2035180
2 of 6

An electronic form and additional information can be found at
http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Electronic_Funds_Transfer/

PAVEMENT SURFACE PROFILE. The Pavement Surface Profile requirements will not be required for this project.

EARLY SUBMISSIONS. The last sentence of the first paragraph of TC-5.02, "No work shall be started before receipt of the Notice to Proceed" shall not apply to the following:

After notification to the Contractor from the Administration that the Contractor is the apparent low bidder, the Contractor will be permitted to provide a written request to the Engineer to submit documentation for materials sources and working drawings for any items of work that have a long lead time and could jeopardize the project schedule. Upon written approval from the Engineer the Contractor may submit the applicable documentation to the Engineer.

Should the Contract not be awarded to the apparent low bidder who meets the requirements of the Contract, GP-8.10 will apply for all costs accrued for the preparation and approval of the working drawings and any resultant material purchase approved by the District Engineer and steel fabricated in conformance with the approved working drawings between the date the Contractor received notice of apparent low bidder and the date of notice that the apparent low bidder will not be awarded this Contract.

Should this Contract not be awarded to the apparent low bidder due to failure of the Contractor to comply with all award and execution requirements, all costs accrued for the preparation of the specific items and any resultant material purchased and steel fabrication shall be borne by the Contractor.

Failure of the Contractor to submit the early submissions will not be basis for delaying issuance of the Notice to Proceed or be considered a reason for a time extension.

SPECIAL PROVISIONS
NOTICE TO CONTRACTOR

CONTRACT NO. DO2035180
3 of 6

REQUEST FOR INFORMATION. Any information regarding the requirements or the interpretation of any provision of the Contract Documents shall be requested, in writing, per the requirement of GP-2.09. Responses to questions or inquiries having any material effect on the bids shall be made by written addenda sent to all prospective bidders. The Administration will not respond to telephone requests for information concerning this invitation for bids that would materially affect the bid.

Written requests for information or questions shall be addressed to:

Mr. Glenn C. Vaughan
Director, Office of Structures
Attention: John Narer, jnarer@sha.state.md.us
Mail Stop C-203
707 North Calvert Street
Baltimore, MD 21202

Each request for information or questions shall include the Contract number and the name and address of the originator.

SPECIAL PROVISIONS
NOTICE TO CONTRACTOR

CONTRACT NO. DO2035180
4 of 6

RAILROAD STATEMENT. Contract No. DO2035180

For this project, the Administration is providing the following statement of coordination (check one):

- ☒ No Railroad coordination required (no RR facilities are affected) (check this box when there is no railroad facility within or near the terminus of the project limits)
- ☐ All Railroad work has been completed prior to the project (check this box if traffic control devices within or near the terminus of the Federal-Aid project limits comply with the current edition of the Manual on Uniform Traffic Control Devices)
- ☐ The necessary arrangements have been made for all railroad work to be undertaken and completed as required for proper coordination with physical construction schedules. (Appropriate notification shall be provided in the PS&E for railroad coordination concurrent with the project construction)
- ☐ For AREAWIDE Contracts, the Administration will provide a Statement of Coordination when the Modification to the 25C is submitted, prior to NTP. (Check this box for all AREAWIDE Projects)

SPECIAL PROVISIONS
NOTICE TO CONTRACTOR

CONTRACT NO. DO2035180
5 of 6

REQUIRED ENVIRONMENTAL PERMITS, APPROVALS AND AUTHORIZATIONS.

The Administration will obtain all required permits, approvals, or authorizations which are within the project scope and limits set forth in the contract documents and listed in the below table. The Contractor shall comply with the requirements of all permits, approvals, or authorizations required for this project. All permits received by advertisement are included in the IFB. Permits received after advertisement and prior to bid opening will be added to the IFB via an addendum.

All of the indicated permits, approvals, and authorizations should be kept on-site unless indicated otherwise. Proposed changes to the project may require additional permits, approvals, and authorizations and/or modifications.

Permit/ Approval/Authorization Description	Required for this project?	Approval/ Permit/ Authorization Included in IFB? ¹	Permit, Approval, Or Auth. Number	Expiration Date
WETLANDS, WATERWAYS, CRITICAL AREA				
MDE Non-tidal Wetland & Waterway Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
MDE Authorization to Proceed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No	19-NT-2040	7/17/2024
MDE Letter of Authorization	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
MDE General Waterway Construction Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
MDE Water Quality Certification	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
MDE Tidal License	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
MDE Tidal Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
MDE Tidal No-License	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
Maryland State Programmatic General Permit	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No	201960727	9/30/2021
COE Individual Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
U.S. Coast Guard Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
Critical Area Commission Approval	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
MDE Water Appropriations Permit for Ground Water	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
EROSION/SEDIMENT CONTROL & STORMWATER MANAGEMENT				
Stormwater Management and Erosion & Sediment Control Approval	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No	17-PR-0100	10/2/22
NPDES Permit for Stormwater Associated with Construction Activity ²	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
AASCD Approval	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		

SPECIAL PROVISIONS
NOTICE TO CONTRACTOR

CONTRACT NO. DO2035180
6 of 6

Permit/ Approval/Authorization Description	Required for this project?	Approval/ Permit/ Authorization Included in IFB? ¹	Permit, Approval, Or Auth. Number	Expiration Date
TREES				
MD Roadside Tree Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
Maryland Reforestation Law Approval	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		
Maryland Forest Conservation Act Approval	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No		

¹ 'Draft' indicates the formal permit has not been obtained but draft permit conditions are included.

² See website listed below for complete NPDES Permit requirements:

<http://mde.maryland.gov/programs/Permits/WaterManagementPermits/Documents/2014MDRC-GeneralPermit.pdf>

Abbreviations:

AASCD - Anne Arundel Soil Conservation District
COE – U.S. Army Corps of Engineers
MDE – Maryland Department of the Environment
NPDES – National Pollutant Discharge Elimination System

**SPECIAL PROVISIONS
RIGHT-OF-WAY STATUS**

CONTRACT NO. DO2035180

1 of 1

RIGHT-OF-WAY STATUS

In accordance with the requirements of Title 23, Code of Federal Regulations, Part 635, the right of way (has been or is being) acquired in accordance with 49 CFR Part 24 and all applicable policy and procedure covering the acquisition of real property. State has legal and physical possession and right to enter on all land as follows:

Total number of parcels required..... 1

1. Parcels acquired (e.g. recorded deed)..... 0

2. A) Parcels covered by other acquisition documents.... 1

<i>Item No.</i>	<i>Property</i>	<i>Date of Option Contract</i>
111570	Vienna...LLC	08/08/2018

B) Parcels covered by ROE due to Condemnations 0
or Title 8 Filings

3. Parcels covered by Order of Immediate Possession by 0
SRC or other authority

STATUS OF AFFECTED RAILROAD OPERATING FACILITIES and UTILITIES:

The RAILROAD STATEMENT and UTILITY STATEMENT will be included in the SPECIAL PROVISIONS of the NOTICE TO CONTRACTOR and/or in the Plans, Specifications, and Estimates (P.S.& E.) package.

RIGHT OF WAY CLEARANCE:

There are no improvements or obstructions located within the limits of this project.

COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS:

Compliance was not required as there were no displacements for this project.

CERTIFICATION:

I hereby certify the right of way on this project as conforming to 23 CFR 635.309 (C)(2). The project may be advertised at any time.

PERMIT APPROVALS




Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Pete K. Rahn
Secretary
Gregory Slater
Administrator

MEMORANDUM

TO: Jeffrey Robert, Chief
Structure Project and Local Government & AASHTO Division
Office of Structures

ATTN: John Narer, Team Leader

FROM: Kevin Wilsey, Deputy Director
Office of Environmental Design 

SUBJECT: Nontidal Wetlands and Waterways Permit
Authorization Number: 19-NT-2040/201960727
FMIS/Contract Number: DO203A21/DO2035180
Project Description: MD 331 Structure 09045X0 over Branch of Nanticoke River

DATE: July 25, 2019

PURPOSE OF MEMORANDUM

To provide documentation of project authorization for inclusion in IFB documents.

SUMMARY

Please find attached the Authorization to Proceed (ATP) for the construction of the above project from the Maryland Department of the Environment (MDE), issued **July 17, 2019** with an expiration date of **July 17, 2024**. Also attached is the Maryland State Programmatic General Permit-5 (MDSPGP-5) from the U.S. Army Corps of Engineers (COE), issued **July 16, 2019** with an expiration date of **September 30, 2021**.

Please include the ATP and MDSPGP-5 and all attached pages in the Invitation for Bids (IFB) booklet, and keep on file and readily available at the work site. Table 1 below shows how the wetland and waterway permit requirements should be shown in the Notice to Contractors.

Please note this authorization is subject to special and general conditions listed in the attachments. The licensee agrees that all the work shall be performed in compliance with these conditions. Please ensure that the contractor is provided a copy of this permit. Please pay special attention to Conditions #8 and #15. Condition #8 requires that the SHA construction project engineer notifies MDE's Compliance Program at least five days before starting the authorized activities and five days after completion. Condition #15 refers to in-stream restriction periods; activities within stream channels are prohibited as determined by the classification of the stream: **The unnamed tributaries to Nanticoke River are a Use I waterways; in-stream work may not be conducted from March 1 through June 15, inclusive, of any year.**

DO203A21
MD 331 Structure 09045Xo
July 25, 2019
Page 2 of 2

In addition, please note the MDSPGP-5 Compliance Self-Certification Form in the permit package. It is also the responsibility of the SHA construction project engineer to complete the Self-Certification Form, sign as the Permittee representative, obtain the Contractor's signature, and send the completed form to EPD. Also, please provide photographs of the completed work. The completed form and photographs will be forwarded by EPD to the COE.

Any changes to the design, which may necessitate the issuance of Addendums or Red-Line Revisions, or field changes are to be reviewed by this office **prior to their issuance**, for the potential of additional permits or permit modifications (additions or reductions to impacts) needed. In the case of Red-line Revisions, this will enable MDOT SHA to avoid the possibility of delay claims.

Table 1: Wetland and Waterway Permit Requirements

Permit/ Approval/Authorization Description	Required for this project?	Approval/ Permit/ Authorization Included in IFB? ¹	Permit, Approval, Or Auth. Number	Expiration Date
WETLANDS, WATERWAYS				
MDE Non-tidal Wetland & Waterway Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
MDE Authorization to Proceed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No	19-NT-2040	7/17/2024
MDE Letter of Authorization	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
MDE General Waterway Construction Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
MDE Water Quality Certification	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
MDE Tidal License	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
MDE Tidal Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
MDE Tidal No-License	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
Maryland State Programmatic General Permit	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Draft <input type="checkbox"/> No	201960727	9/30/2021
COE Individual Permit	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		
Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Draft <input checked="" type="checkbox"/> No		

Should you have any questions, please contact Mark Smith at 410-545-8632 or msmith5@mdot.maryland.gov

cc: Ms. Donna Buscemi, EPLD
Ms. Dana Havlik, HHD
Ms. Aimee Semler, QAD

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION
AUTHORIZATION TO PROCEED

AUTHORIZATION NUMBER: 19-NT-2040/201960727

EFFECTIVE DATE: July 17, 2019

EXPIRATION DATE: July 17, 2024



AUTHORIZED PERSON: Maryland Department of Transportation
 State Highway Administration
 707 N. Calvert Street
 Baltimore, MD 21202
 Attn: Mr. Kevin Wilsey

IN ACCORDANCE WITH ENVIRONMENT ARTICLE §5-503(a) AND §5-906(b), ANNOTATED CODE OF MARYLAND (2007 REPLACEMENT VOLUME), COMAR 26.17.04 AND 26.23.01, AND 26.08.02 AND THE ATTACHED CONDITIONS OF AUTHORIZATIONS, MARYLAND DEPARTMENT OF TRANSPORTATION, STATE HIGHWAY ADMINISTRATION ("AUTHORIZED PERSON"), IS HEREBY AUTHORIZED BY THE WATER AND SCIENCE ADMINISTRATION ("ADMINISTRATION") TO CONDUCT A REGULATED ACTIVITY IN A NONTIDAL WETLAND, BUFFER, OR EXPANDED BUFFER, AND/OR TO CHANGE THE COURSE, CURRENT OR CROSS-SECTION OF WATERS OF THE STATE, IN ACCORDANCE WITH THE ATTACHED PLANS APPROVED BY THE ADMINISTRATION ON JULY 17, 2019 ("APPROVED PLAN") AND PREPARED BY STATE HIGHWAY ADMINISTRATION AND INCORPORATED HEREIN, AS DESCRIBED BELOW:

Regulated activities associated with the replacement of SHA Structure No. 09045X0 carrying MD 331 over a tributary to Nanticoke River (SHA Contract No. DO2035180). The work includes replacement of the existing twin 24-inch by 35-inch corrugated metal pipes with twin 36-inch reinforced concrete pipes, placement of riprap headwall and outfall protection, installation of temporary stream diversions, and post-construction stabilization. This project will permanently impact 183 linear feet of intermittent unnamed tributaries to Nanticoke River. This project will also temporarily impact 128 linear feet of intermittent unnamed tributaries to Nanticoke River and 10,286 square feet of the 100-year floodplain. The project is located on MD 331, approximately 300 feet south of US 50 in Vienna, Dorchester County.

MD Grid Coordinates: N 92402 ± E 502300 ±

Denise M. Keehner
 Program Manager
 Wetlands and Waterways Program

Attachments: Conditions of Authorization, BMPs, Approved Plans, MDSPGP-5

cc: WSA Compliance Division w/ file, Dorchester County

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 19-NT-2040/201960727

Page 2 of 3

1. **Validity:** Authorization is valid only for use by Authorized Person. Authorization may be transferred only with prior written approval of the Administration. In the event of transfer, transferee agrees to comply with all terms and conditions of Authorization.
2. **Initiation of Work, Modifications and Extension of Term:** Authorized Person shall initiate authorized activities with two (2) years of the Effective Date of this Authorization or the Authorization shall expire. Authorized Person may submit written requests to the Administration for (a) extension of the period for initiation of work, (b) modification of Authorization, including the Approved Plan, or, (c) not later than 45 days prior to Expiration Date, an extension of the term. Requests for modification shall be in accordance with applicable regulations and shall state reasons for changes, and shall indicate the impacts on nontidal wetlands, streams, and the floodplain, as applicable. The Administration may grant a request at its sole discretion.
3. **Responsibility and Compliance:** Authorized Person is fully responsible for all work performed and activities authorized by this Authorization shall be performed in compliance with this Authorization and Approved Plan. Authorized Person agrees that a copy of the Authorization and Approved Plan shall be kept at the construction site and provided to its employees, agents and contractors. A person (including Authorized Person, its employees, agents or contractors) who violates or fails to comply with the terms and conditions of this Authorization, Approved Plan or an administrative order may be subject to penalties in accordance with §5-514 and §5-911, Department of the Environment Article, Annotated Code of Maryland (2007 Replacement Volume).
4. **Failure to Comply:** If Authorized Person, its employees, agents or contractors fail to comply with this Authorization or Approved Plan, the Administration may, in its discretion, issue an administrative order requiring Authorized Person, its employees, agents and contractors to cease and desist any activities which violate this Authorization, or the Administration may take any other enforcement action available to it by law, including filing civil or criminal charges.
5. **Suspension or Revocation:** Authorization may be suspended or revoked by the Administration, after notice of opportunity for a hearing, if Authorized Person: (a) submits false or inaccurate information in Permit application or subsequently required submittals; (b) deviates from the Approved Plan, specifications, terms and conditions; (c) violates, or is about to violate terms and conditions of this Authorization; (d) violates, or is about to violate, any regulation promulgated pursuant to Title 5, Department of the Environment Article, Annotated Code of Maryland as amended; (e) fails to allow authorized representatives of the Administration to enter the site of authorized activities at any reasonable time to conduct inspections and evaluations; (f) fails to comply with the requirements of an administrative action or order issued by the Administration; or (g) does not have vested rights under this Authorization and new information, changes in site conditions, or amended regulatory requirements necessitate revocation or suspension.
6. **Other Approvals:** Authorization does not authorize any injury to private property, any invasion of rights, or any infringement of federal, State or local laws or regulations, nor does it obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.
7. **Site Access:** Authorized Person shall allow authorized representatives of the Administration access to the site of authorized activities during normal business hours to conduct inspections and evaluations necessary to assure compliance with this Authorization. Authorized Person shall provide necessary assistance to effectively and safely conduct such inspections and evaluations.
8. **Inspection Notification:** Authorized Person shall notify the Administration's Compliance Program at least five (5) days before starting authorized activities and five (5) days after completion. For Allegany, Garrett, and Washington counties, Authorized Person shall call 301-689-1480. For Carroll, Frederick, Howard, Montgomery, and Prince George's counties, Authorized Person shall call 301-665-2850. For Baltimore City, Anne Arundel, Baltimore, Calvert, Charles, and St. Mary's, Authorized Person shall call 410-537-3510. For Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico and Worcester, Authorized Person shall call 410-901-4020. If Authorization is for a project that is part of a mining site, please contact the Land and Materials Administration's Mining Program at 410-537-3557 at least five (5) days before starting authorized activities and five (5) days after completion.
9. **Sediment Control:** Authorized Person shall obtain approval from the Maryland State Highway Administration Plan Review Division for a grading and sediment control plan specifying soil erosion control measures. The approved grading and sediment control plan shall be included in the Approved Plan, and shall be available at the construction site.

THE FOLLOWING CONDITIONS OF AUTHORIZATION APPLY TO ALL ACTIVITIES AUTHORIZED BY
AUTHORIZATION NUMBER 19-NT-2040/201960727

Page 3 of 3

10. **Best Management Practices During Construction:** Authorized Person, its employees, agents and contractors shall conduct authorized activities in a manner consistent with the Best Management Practices specified by the Administration.
11. **Disposal of Excess:** Unless otherwise shown on the Approved Plan, all excess fill, spoil material, debris, and construction material shall be disposed of outside of nontidal wetlands, nontidal wetlands buffers, and the 100-year floodplain, and in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands.
12. **Temporary Staging Areas:** Temporary construction trailers or structures, staging areas and stockpiles shall not be located within nontidal wetlands, nontidal wetlands buffers, or the 100-year floodplain unless specifically included on the Approved Plan.
13. **Temporary Stream Access Crossings:** Temporary stream access crossings shall not be constructed or utilized unless shown on the Approved Plan. If temporary stream access crossings are determined necessary prior to initiation of work or at any time during construction, Authorized Person, its employees, agents or contractors shall submit a written request to the Administration and secure the necessary permits or approvals for such crossings before installation of the crossings. Temporary stream access crossings shall be removed and the disturbance stabilized prior to completion of authorized activity or within one (1) year of installation.
14. **Discharge:** Runoff or accumulated water containing sediment or other suspended materials shall not be discharged into waters of the State unless treated by an approved sediment control device or structure.
15. **Instream Construction Prohibition:**
 - ☐ No instream construction is to occur under this Authorization;
 - ☒ To protect important aquatic species, motor driven construction equipment shall not be allowed within stream channels unless on authorized ford crossings. Activities within stream channels are prohibited as determined by the classification of the stream (COMAR 26.08.02.08): The unnamed tributaries to Nanticoke River are Use I waterways; in-stream work may not be conducted from March 1 through June 15 inclusive, of any year.
16. **Instream Blasting:** Authorized Person shall obtain prior written approval from the Administration before blasting or using explosives in the stream channel.
17. **Minimum Disturbance:** Any disturbance of stream banks, channel bottom, wetlands, and wetlands buffer authorized by this Authorization or Approved Plan shall be the minimum necessary to conduct permitted activities. All disturbed areas shall be stabilized vegetatively no later than seven (7) days after construction is completed or in accordance with the approved grading or sediment and erosion control plan.
18. **Restoration of Construction Site:** Authorized Person shall restore the construction site upon completion of authorized activities. Undercutting, meandering or degradation of the stream banks or channel bottom, any deposition of sediment or other materials, and any alteration of wetland vegetation, soils, or hydrology, resulting directly or indirectly from construction or authorized activities, shall be corrected by Authorized Person as directed by the Administration.

FEDERALLY MANDATED STATE AUTHORIZATIONS

The State of Maryland issued a Water Quality Certification to the U.S. Army Corps of Engineers for projects receiving federal authorization under the Maryland State Programmatic General Permit, Regional General Permit for Chesapeake Bay Total Maximum Daily Load (TMDL) Activities and non-suspended Nationwide Permits. In addition, as applicable, this Authorization constitutes the State's concurrence with the Applicant's certification that the activities authorized herein are consistent with the Maryland Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act of 1972, as amended. Activities in the following counties are not subject to the Maryland Coastal Zone Management requirement: Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington.

U.S. ARMY CORPS OF ENGINEERS AUTHORIZATION

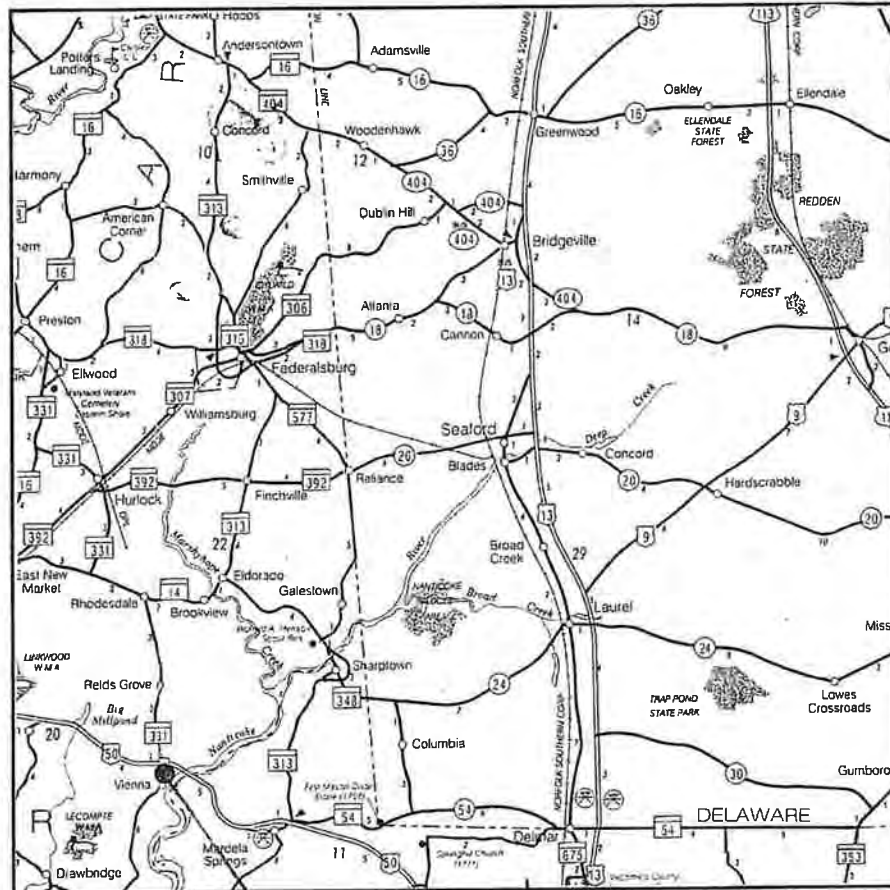
The U.S. Army Corps of Engineers has reviewed this activity and has granted authorization under the Maryland State Programmatic General Permit (MDSPGP-5), as a Category A activity. The terms and conditions of the MDSPGP-5, as outlined in the enclosed attachment, should be followed when performing the authorized work.

**BEST MANAGEMENT PRACTICES FOR WORKING IN
NONTIDAL WETLANDS, WETLAND BUFFERS,
WATERWAYS, AND 100-YEAR FLOODPLAINS**

- 1) No excess fill, construction material, or debris shall be stockpiled or stored in nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
- 2) Place materials in a location and manner which does not adversely impact surface or subsurface water flow into or out of nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
- 3) Do not use the excavated material as backfill if it contains waste metal products, unsightly debris, toxic material, or any other deleterious substance. If additional backfill is required, use clean material free of waste metal products, unsightly debris, toxic material, or any other deleterious substance.
- 4) Place heavy equipment on mats or suitably operate the equipment to prevent damage to nontidal wetlands, nontidal wetland buffers, waterways, or the 100-year floodplain.
- 5) Repair and maintain any serviceable structure or fill so there is no permanent loss of nontidal wetlands, nontidal wetland buffers, or waterways, or permanent modification of the 100-year floodplain in excess of that lost under the originally authorized structure or fill.
- 6) Rectify any nontidal wetlands, wetland buffers, waterways, or 100-year floodplain temporarily impacted by any construction.
- 7) All stabilization in the nontidal wetland and nontidal wetland buffer shall consist of the following species: Annual Ryegrass (Lolium multiflorum), Millet (Setaria italica), Barley (Hordeum sp.), Oats (Uniola sp.), and/or Rye (Secale cereale). These species will allow for the stabilization of the site while also allowing for the voluntary revegetation of natural wetland species. Other non-persistent vegetation may be acceptable, but must be approved by the Nontidal Wetlands and Waterways Division. **Kentucky 31 fescue shall not be utilized in wetland or buffer areas.** The area should be seeded and mulched to reduce erosion after construction activities have been completed.
- 8) After installation has been completed, make post-construction grades and elevations the same as the original grades and elevations in temporarily impacted areas.
- 9) To protect aquatic species, in-stream work is prohibited as determined by the classification of the stream:

Use I waters: In-stream work shall not be conducted during the period March 1 through June 15, inclusive, during any year.

- 10) Stormwater runoff from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
- 11) Culverts shall be constructed and any riprap placed so as not to obstruct the movement of aquatic species, unless the purpose of the activity is to impound water.



PROJECT LOCATION

19-NF-2040/201960727

Plans Approved By: ET
 Date: 2/17/19
 Water and Science Administration
 Maryland Department of the Environment
 PAGE 1 OF 19
 AREA OF REVIEW WITHIN LOD

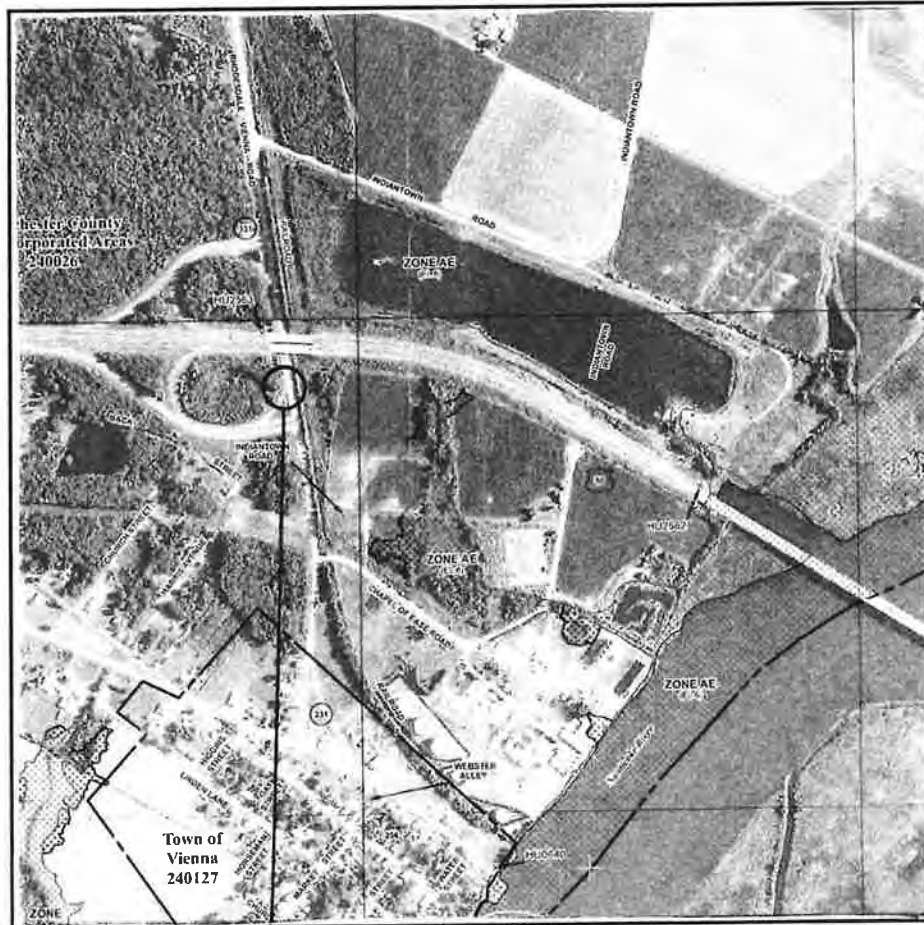
VICINITY MAP
 SCALE: 1" = 6 MILES

SHEET 1 OF 12

REVISED:

REPLACEMENT OF SMALL STRUCTURE NO. 09045X0
 DOUBLE 36" DIA. PIPE
 ON MD RTE. 331 CARRYING TRIBUTARY OF NANTICOKE RIVER
 S.H.A. CONT. NO. DO2035180
 DORCHESTER COUNTY, MARYLAND
 DATE: JANUARY, 2019

MARYLAND STATE HIGHWAY ADMIN.
 707 NORTH CALVERT ST. BALTO., MD. 21202



PROJECT LOCATION

FEMA FLOODPLAIN MAP #24019 C0377E

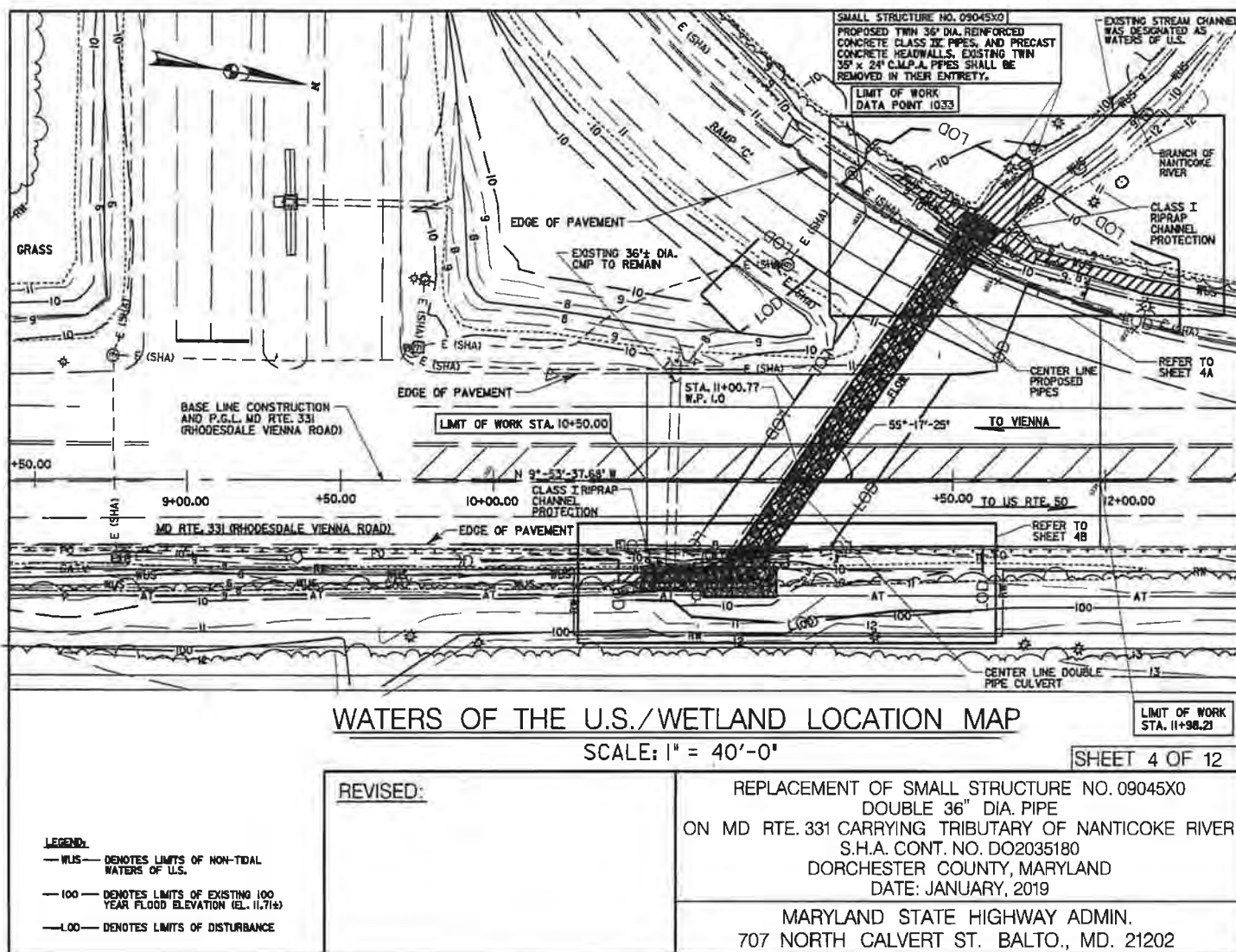
SCALE: 1" = 500'

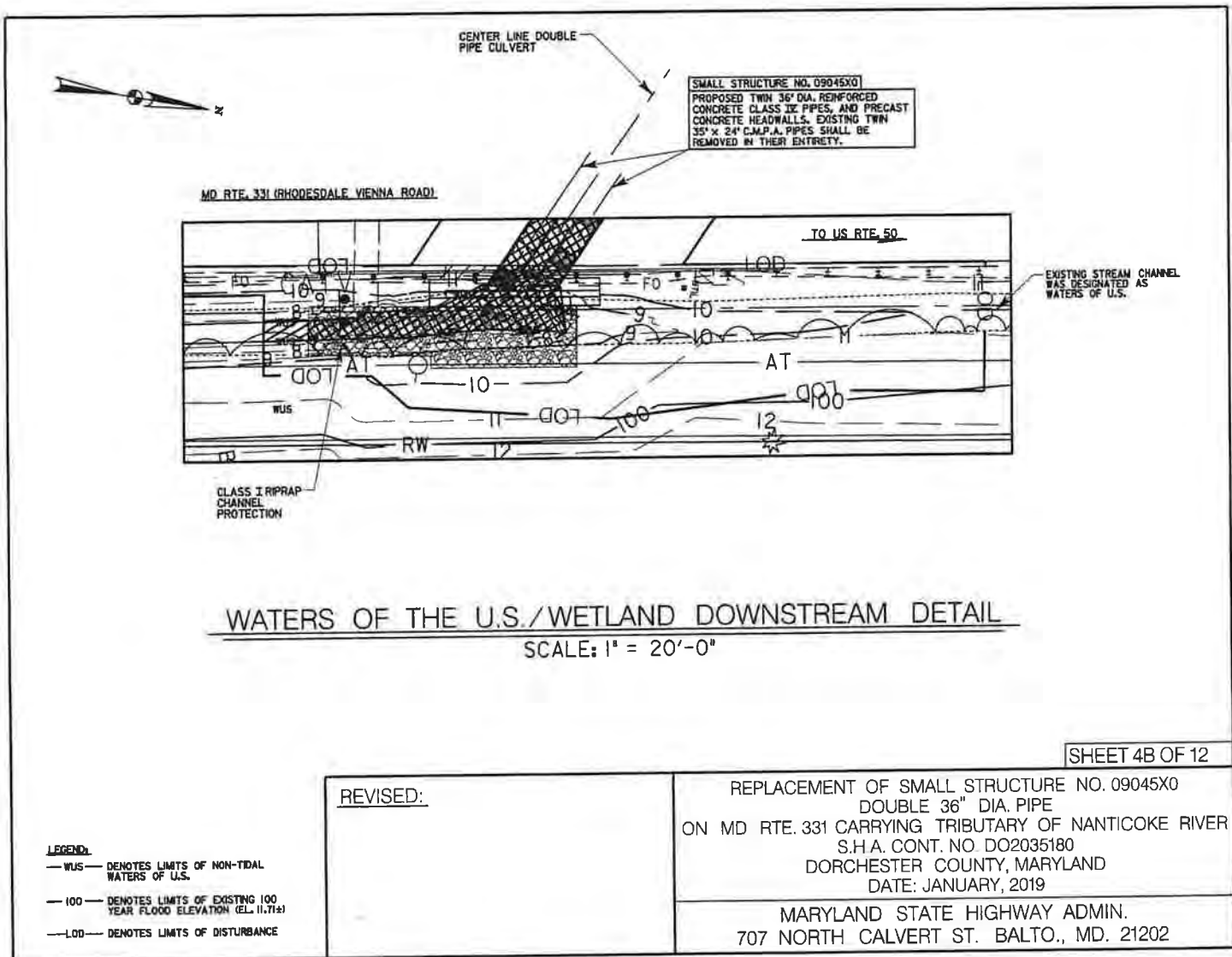
SHEET 3 OF 12

REVISED:

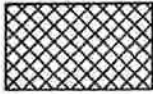
REPLACEMENT OF SMALL STRUCTURE NO. 09045X0
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DORCHESTER COUNTY, MARYLAND
DATE: JANUARY, 2019

MARYLAND STATE HIGHWAY ADMIN.
707 NORTH CALVERT ST. BALTO., MD. 21202





LEGEND:



DENOTES PERMANENT IMPACTS TO NON-TIDAL
WATERS OF U.S. = 1773.41 SQ. FT. (0.041 ACRE)
(183 L.F.)



DENOTES TEMPORARY IMPACTS TO NON-TIDAL
WATERS OF U.S. = 643 SQ. FT. (0.015 ACRE)
(128 L.F.)

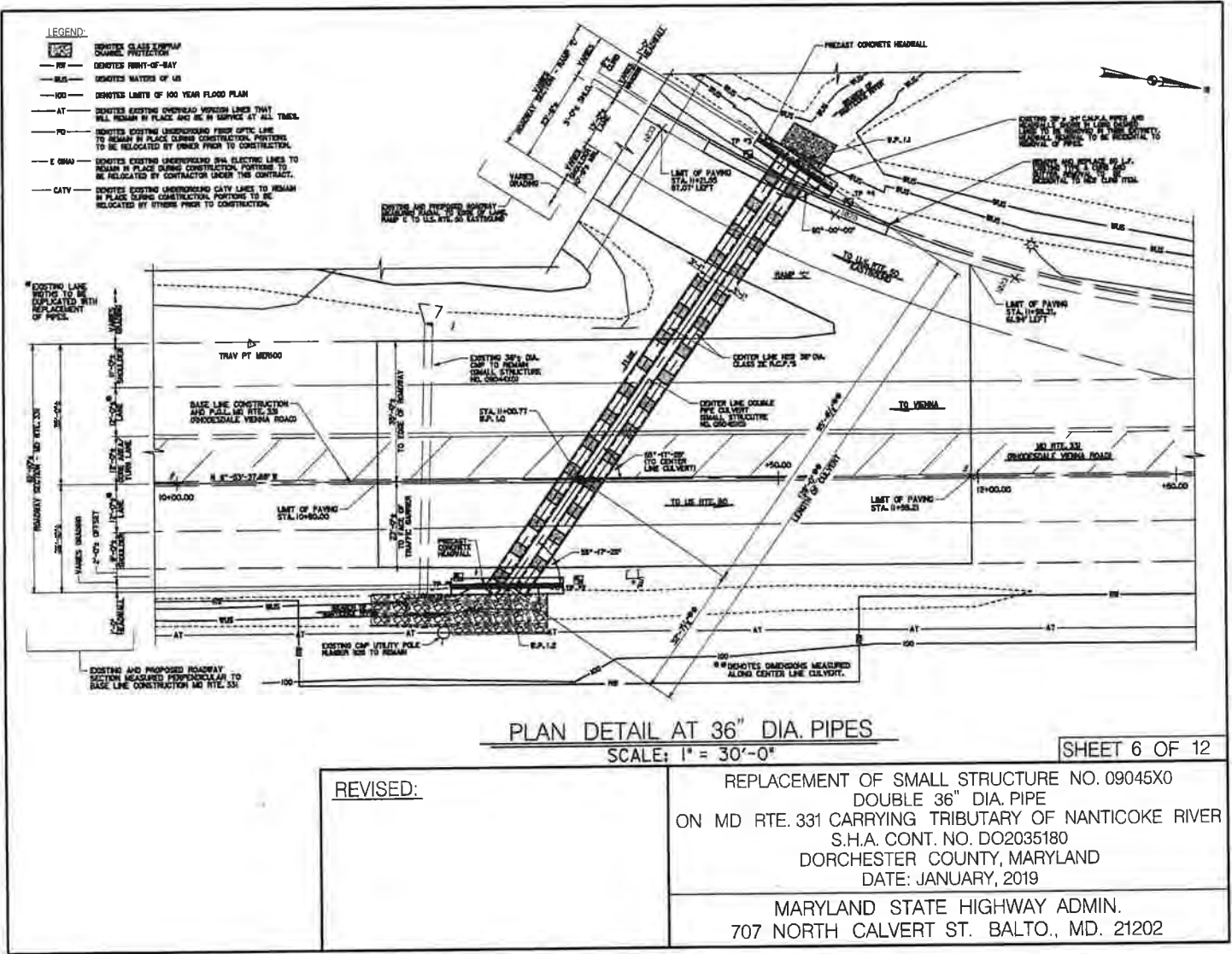
- WUS —— DENOTES LIMITS OF NON-TIDAL WATERS OF U.S.
- RW —— DENOTES RIGHT-OF-WAY
- LOD —— DENOTES LIMITS OF DISTURBANCE
- 100 —— DENOTES LIMITS OF 100 YEAR FLOODPLAIN (EL. 40.68±)
TOTAL 100 YEAR FLOODPLAIN DISTURBANCE = 10286 SQ. FT. (0.24 ACRE)

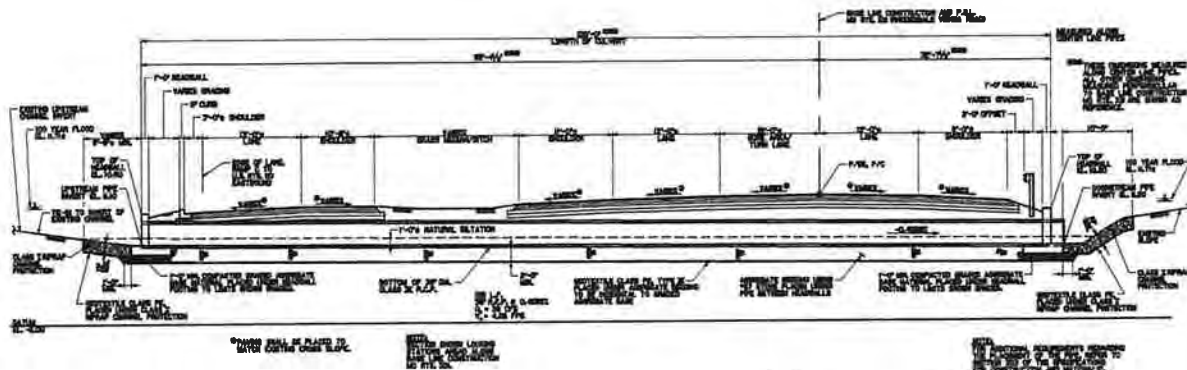
SHEET 5 OF 12

REVISED:

REPLACEMENT OF SMALL STRUCTURE NO. 09045X0
DOUBLE 36" DIA. PIPE
ON MD RTE. 331 CARRYING TRIBUTARY OF NANTICOKE RIVER
S.H.A. CONT. NO. DO2035180
DORCHESTER COUNTY, MARYLAND
DATE: JANUARY, 2019

MARYLAND STATE HIGHWAY ADMIN.
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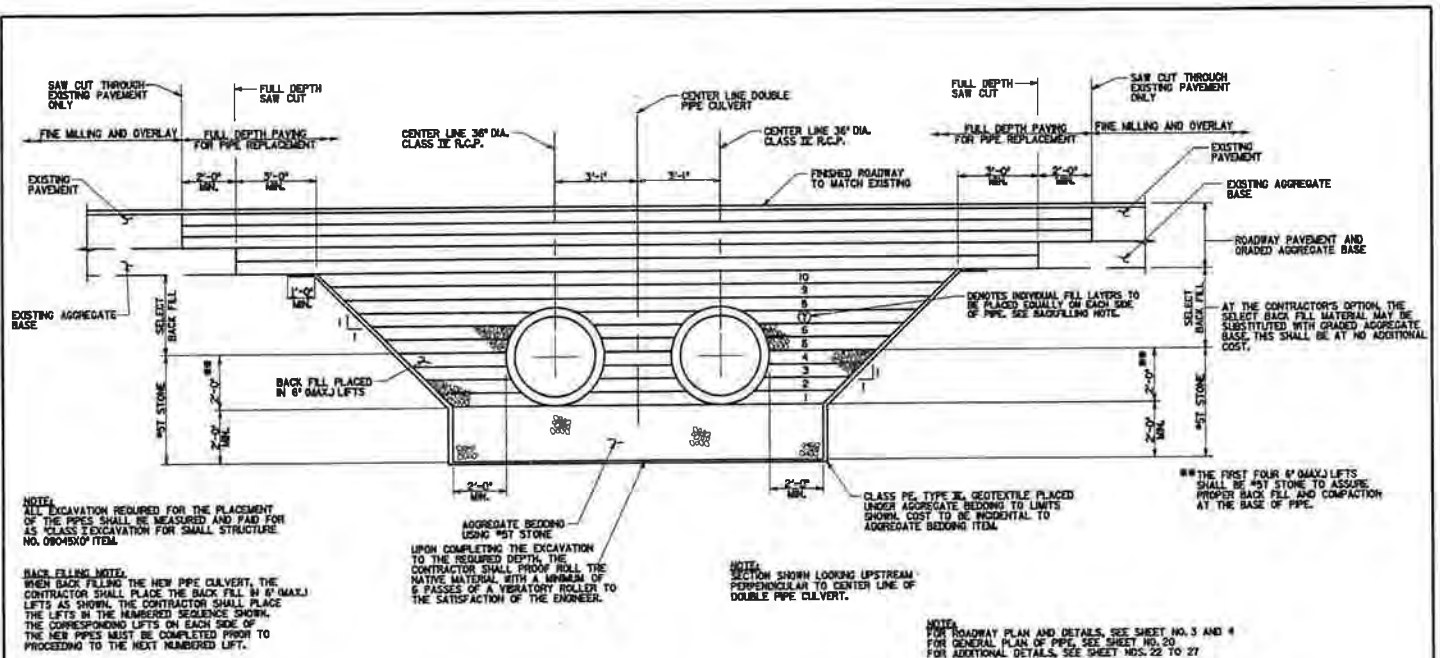


SHEET 7 OF 12

REVISÉD:

REPLACEMENT OF SMALL STRUCTURE NO. 09045X0
DOUBLE 36" DIA. PIPE
ON MD RTE. 331 CARRYING TRIBUTARY OF NANTICOKE RIVER
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DORCHESTER COUNTY, MARYLAND
DATE: JANUARY, 2019

MARYLAND STATE HIGHWAY ADMIN.
707 NORTH CALVERT ST. BALTO., MD. 21202



SECTION
PIPE BACK FILL DETAIL BETWEEN HEADWALLS

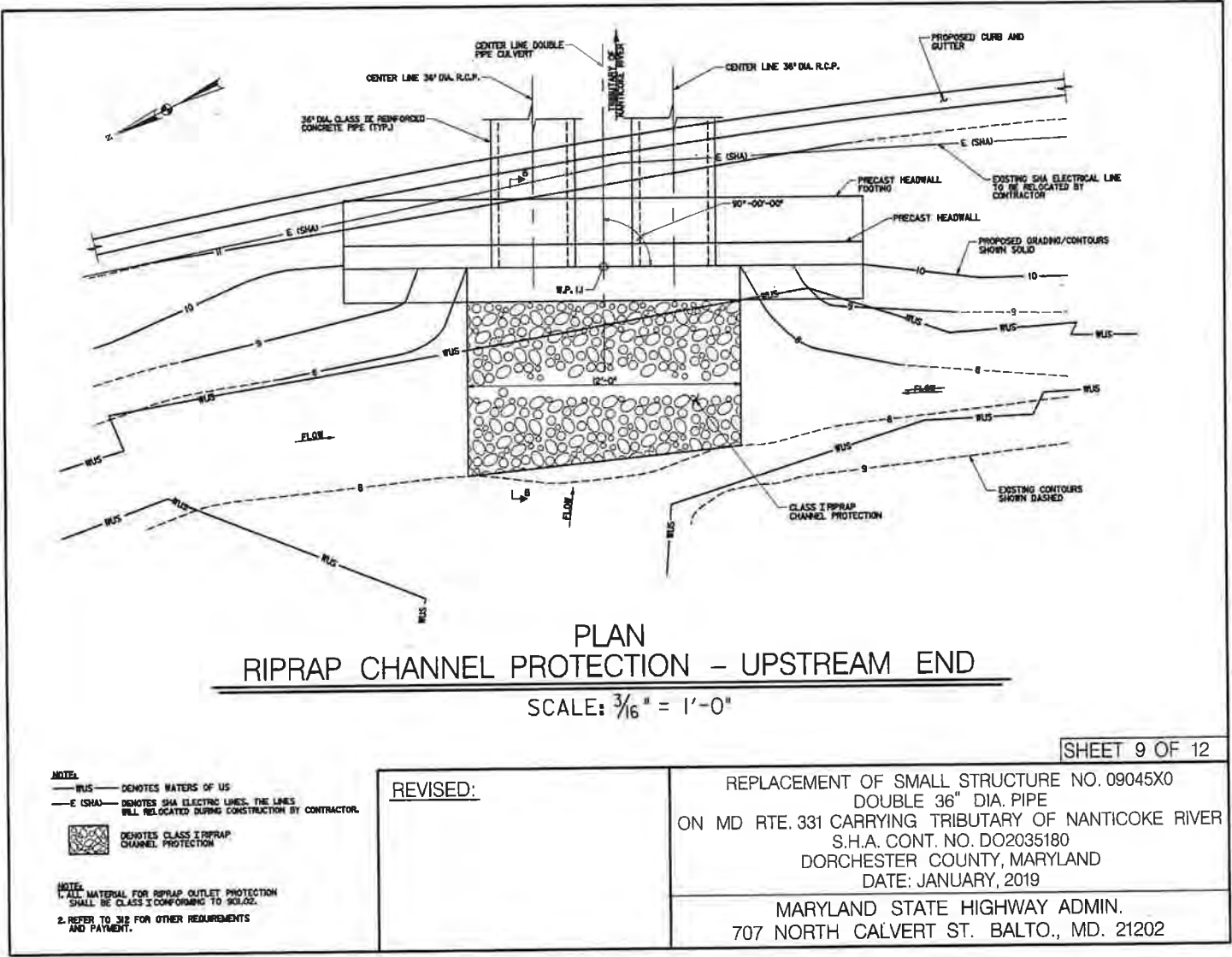
SCALE: $\frac{3}{16}'' = 1'-0''$

SHEET 8 OF 12

REVISÉD:

REPLACEMENT OF SMALL STRUCTURE NO. 09045X0
DOUBLE 36" DIA. PIPE
ON MD RTE. 331 CARRYING TRIBUTARY OF NANTICOKE RIVER
S.H.A. CONT. NO. DO2035180
DORCHESTER COUNTY, MARYLAND
DATE: JANUARY, 2019

MARYLAND STATE HIGHWAY ADMIN.
707 NORTH CALVERT ST. BALTO., MD. 21202



PLAN
RIPRAP CHANNEL PROTECTION - UPSTREAM END
SCALE: 3/16" = 1'-0"

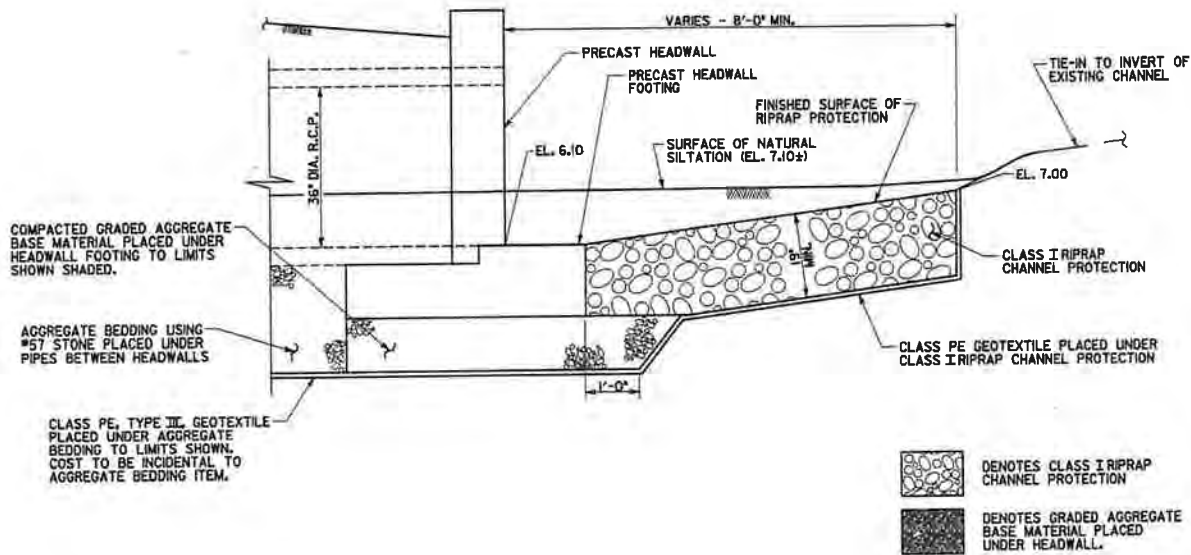
SHEET 9 OF 12

- NOTE:
- WUS — DENOTES WATERS OF US
 - E (SHA) — DENOTES SHA ELECTRIC LINES; THE LINES WILL BE RELOCATED DURING CONSTRUCTION BY CONTRACTOR.
 - DENOTES CLASS I RIPRAP CHANNEL PROTECTION
- NOTES:
- ALL MATERIAL FOR RIPRAP OUTLET PROTECTION SHALL BE CLASS I CONFORMING TO 901.02.
 - REFER TO 312 FOR OTHER REQUIREMENTS AND PAYMENT.

REVISED:

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MARYLAND STATE HIGHWAY ADMIN.
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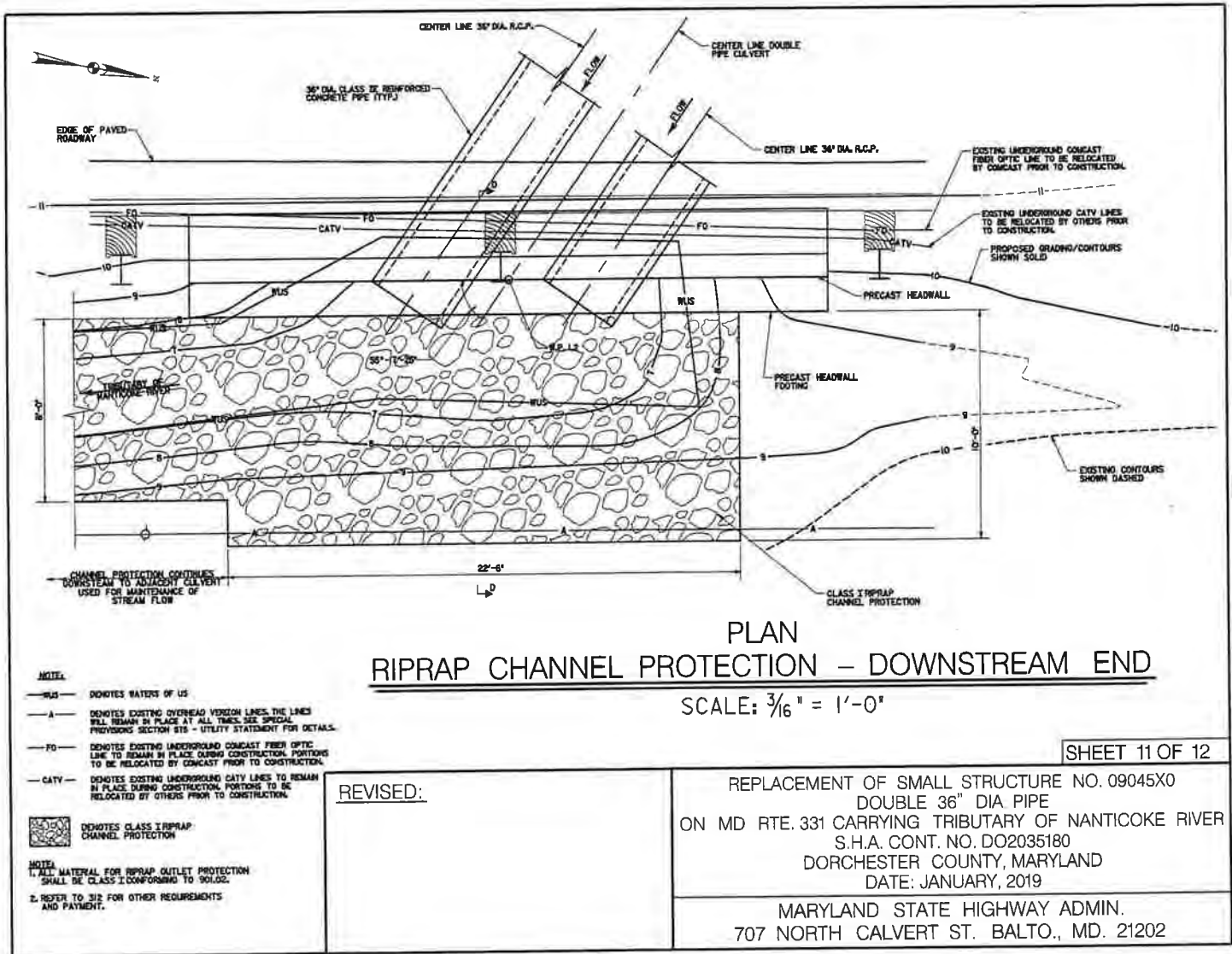
SECTION B-B
RIPRAP PLACEMENT AT UPSTREAM END
SCALE: $\frac{3}{8}" = 1'-0"$

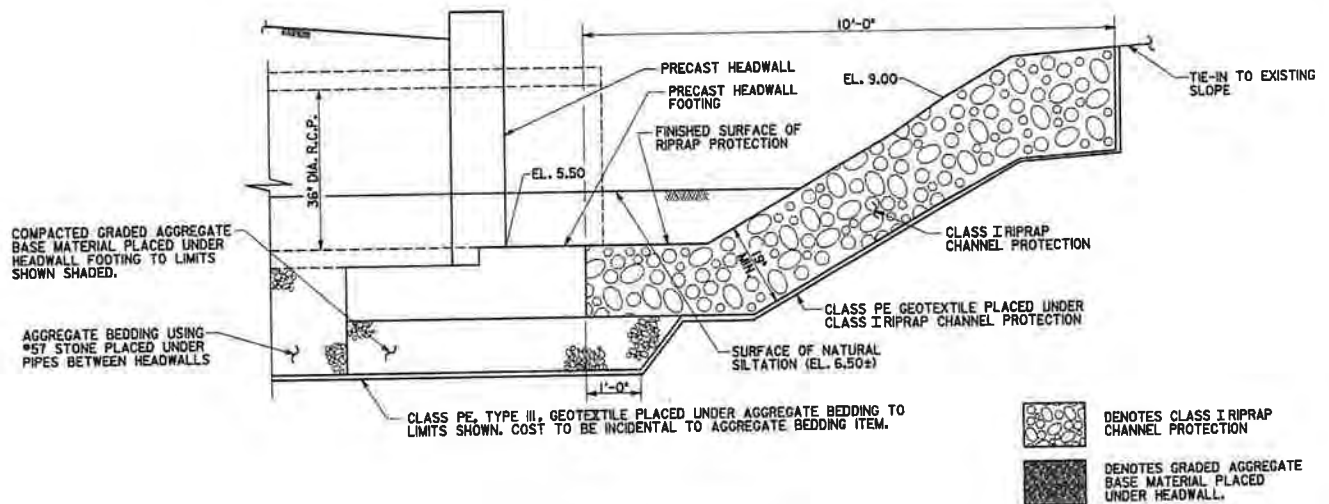
SHEET 10 OF 12

REVISED:

REPLACEMENT OF SMALL STRUCTURE NO. 09045X0
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ON MD RTE. 331 CARRYING TRIBUTARY OF NANTICOKE RIVER
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DATE: JANUARY, 2019

MARYLAND STATE HIGHWAY ADMIN.
707 NORTH CALVERT ST. BALTO., MD. 21202





SECTION D-D
RIPRAP PLACEMENT AT DOWNSTREAM END

SCALE: $\frac{3}{8}" = 1'-0"$

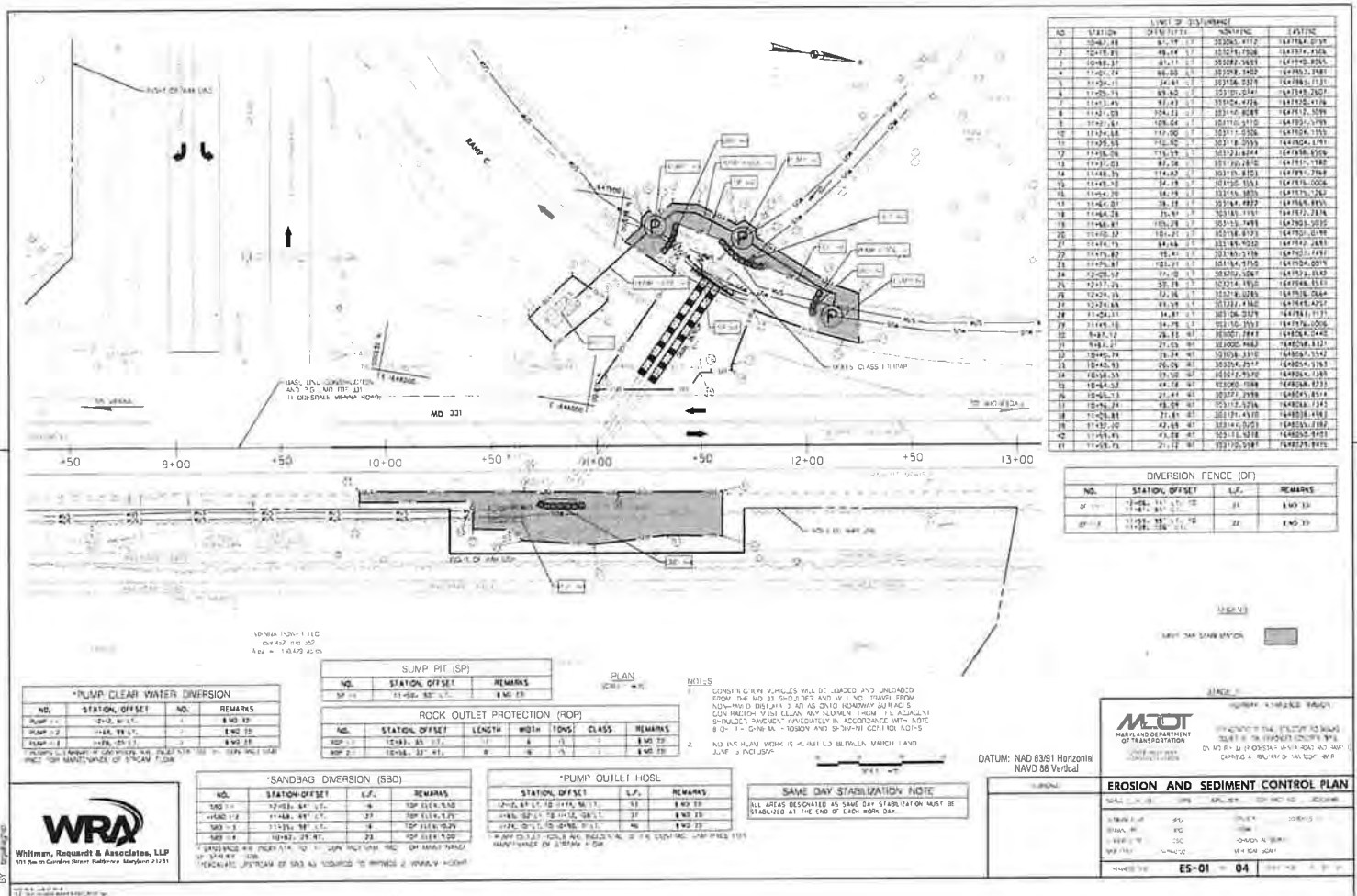
SHEET 12 OF 12

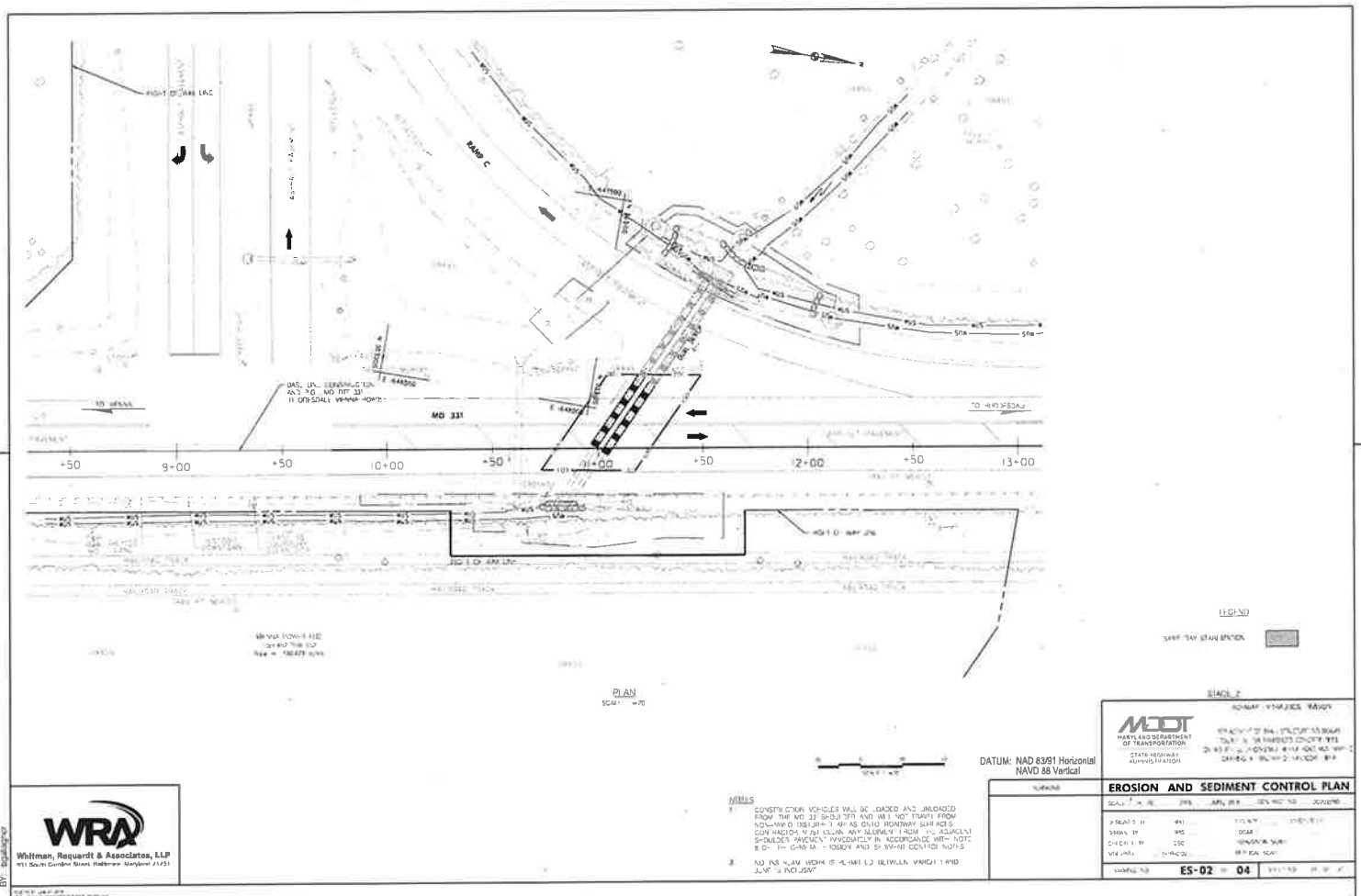
REVISED:

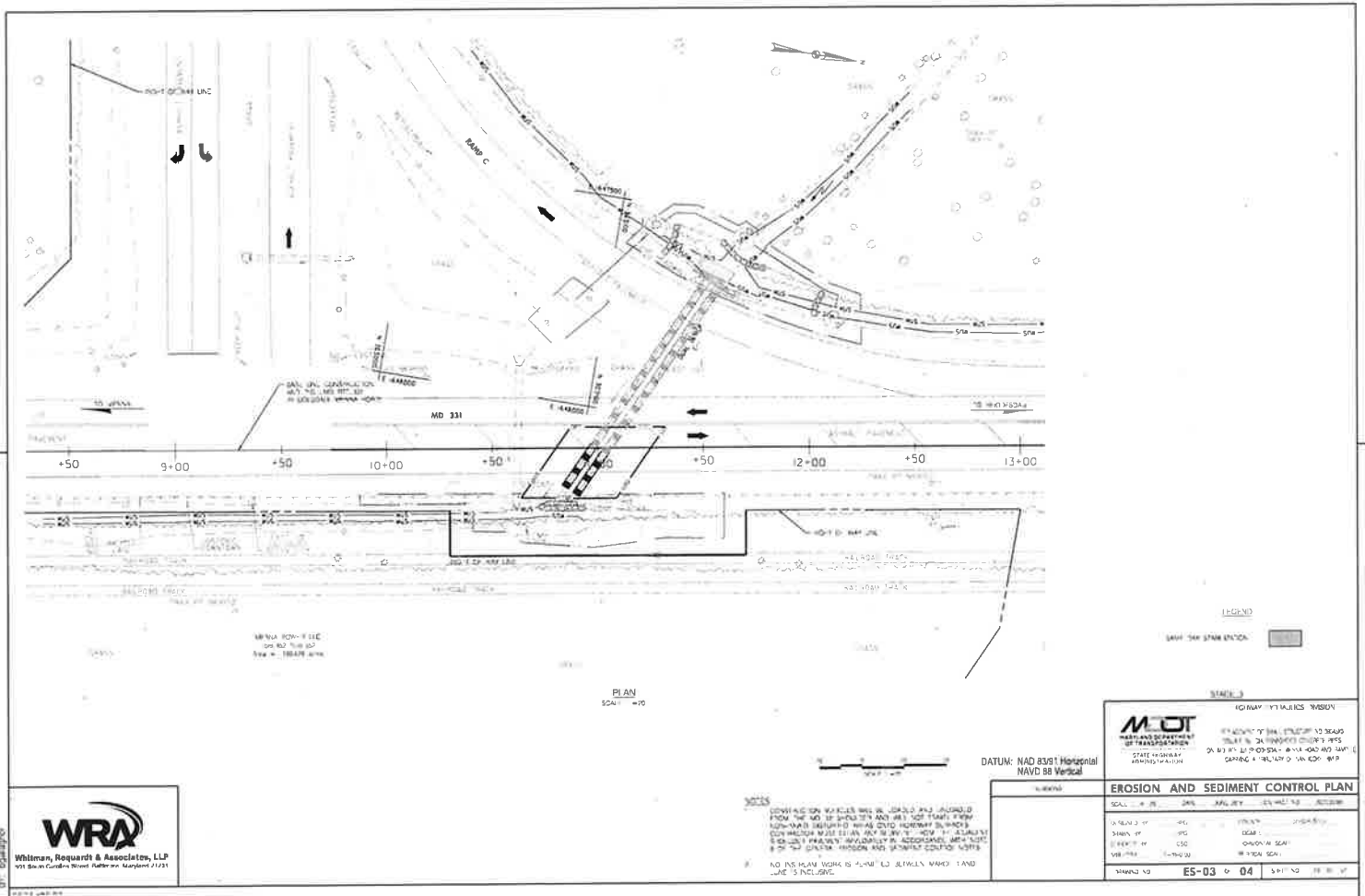
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DORCHESTER COUNTY, MARYLAND
DATE: JANUARY, 2019

MARYLAND STATE HIGHWAY ADMIN.
707 NORTH CALVERT ST. BALTO., MD. 21202











DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
10 S. HOWARD STREET
BALTIMORE, MD 21201

IMPORTANT INFORMATION ABOUT YOUR PROJECT

Corps Permit Tracking No.: 201960727/19-NT-2040 Date: 7/16/2019
 Permittee/Project Name: MD SHA/Replacement of Structure No. 09045X0 (MD 331)
 MDSPGP-5 Activity No.: A-b(1)

Dear Applicant:

The U. S. Army Corps of Engineers, Baltimore District, has determined that the proposed work meets the enclosed terms and conditions of the Maryland State Programmatic General Permit-5 (MDSPGP-5). A requisite of permit issuance requires that the applicant comply with any specific terms and conditions associated with the authorized project (conditions enclosed). This MDSPGP-5 verification is provided pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If any of the information contained in your application and/or plans is later found to be in error, the MDSPGP-5 authorization for your project may be modified, suspended, or revoked.

As a condition of the MDSPGP-5 authorization, you, the permittee, are required to complete and sign the enclosed Compliance Self-Certification Form regarding the completed work and any required mitigation. The signed form should be returned to the Regulatory Branch at the above address within 60 days following completion of the authorized work and any required mitigation.

Please be aware that the terms and conditions of this permit will continue to be binding on the new property owner(s) if structures or work authorized by this permit exist at the time of ownership transfer of the associated property. Although the construction period for work authorized by this MDSPGP-5 is finite, the permit itself, with its limitations, does not expire. To validate the transfer of this permit and the legal responsibility to comply with its terms and conditions, the transferee (new owner) must provide the Corps a mailing address and telephone number along with their signature and date in the space provided below and mail a copy to the above address.

Your MDSPGP-5 authorization is valid until September 30, 2021 unless the permit is modified, reissued, or revoked. You must remain informed of the changes to the MDSPGP-5. When changes to the MDSPGP-5 occur, a public notice announcing the changes will be issued. Be advised that you have 12 months from the effective date of the MDSPGP-5's expiration, modification or revocation to complete the work under the present terms and conditions provided you have commenced construction or are under contract to commence construction of the authorized work.

In order for this authorization to be valid, you must obtain all required Federal, State, and local permits.

Beth E. Bachur

Beth E. Bachur
 Acting Chief, Regulatory Branch

 TRANSFEREE SIGNATURE

 DATE

 AREA CODE / TELEPHONE NO.

 PRINTED NAME

 ADDRESS



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
10 S. HOWARD STREET
BALTIMORE, MD 21201

Effective October 1, 2016

201960727

Corps Permit No.

CENAB-OPR-MDSPGP-5 (MARYLAND STATE PROGRAMMATIC GENERAL PERMIT-5)

TO WHOM IT MAY CONCERN:

Upon recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act, as amended, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Secretary of the Army hereby authorizes the discharge of dredged or fill material or the placement of structures into Waters of the United States, including wetlands and navigable waters. These discharges and structures must comply with all the terms and conditions identified in this MDSPGP-5. It has been determined that the project qualifies for the MDSPGP-5. Accordingly, you are authorized to undertake the activity pursuant to:

1. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403); and/or
2. Section 404 of the Clean Water Act (33 U.S.C. 1344).

You are authorized to perform work in accordance with the terms and conditions specified in Section VII of the MDSPGP-5 effective on October 1, 2016.

VII. General Conditions: To qualify for MDSPGP-5 authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any activity-specific impact limits and requirements identified in the Description of MDSPGP-5 Authorized Activities, and any case-specific special conditions imposed by the Corps.

A. General Requirements:

1. **Other Permits:** Authorization under the MDSPGP-5 does not obviate the need to obtain other Federal, State, or local authorizations required by law or to comply with all Federal, state or local laws.

2. **Geographic Jurisdiction:** This MDSPGP-5 will authorize work undertaken within the geographic limits of the State of Maryland under the regulatory jurisdiction of the Baltimore District.

3. **Applicability:** Applicability of the MDSPGP-5 must be reviewed with reference to the Corps definition of waters of the United States, including wetlands, and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The identification and delineation of wetland boundaries must be accomplished in accordance with the current Federal manual for identifying jurisdictional wetlands and applicable supplemental guidance issued by the Corps of Engineers.

4. **Minimal Effects:** Projects authorized by the MDSPGP-5 must have no more than minimal individual and cumulative adverse environmental effects, as determined by the Baltimore District.

5. Discretionary Authority: Notwithstanding compliance with the terms and conditions of the MDSPGP-5, the Corps retains discretionary authority to require an alternate Corps permit review for any project under any categories of the MDSPGP-5 based on concerns for the aquatic environment or for any other public interest factor. This authority may be invoked on a case-by-case basis during the review process for Category B activities whenever the Corps determines that, based on the concerns stated above, the potential consequences of the proposed project warrant individual review. In some rare instances, the Corps may have concerns for the aquatic environment or for any other public interest factor pertaining to a specific proposed project, which has already received a case-specific verification as a Category A activity. In order to evaluate this project under an alternate Corps permit review, the verification must be suspended in accordance with Section VIII.E of the MDSPGP-5.

Whenever the Corps notifies an applicant that an alternate Corps permit may be required, authorization under the MDSPGP-5 is voided. No work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the MDSPGP-5.

6. Single and Complete Projects: The MDSPGP-5 must not be used for piecemeal work and must be applied to single and complete projects, including maintenance activities. For purposes of this MDSPGP-5, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers and which has independent utility. All components of a project, including all attendant features both temporary and permanent, must be reviewed together as constituting one single and complete project. The MDSPGP-5 must not be used for any activity or portion of a project (e.g., a pier or boat ramp), that is part of, or dependent on, an overall project (e.g., the dredging of a main navigation channel or a spur channel), for which an individual permit or some other alternate Corps permit is required. The same activity under the MDSPGP-5 cannot be used more than once for the same single and complete project.

7. Use of Multiple MDSPGP-5 Activities: More than one MDSPGP-5 activity may be used to authorize a single and complete project. However, the specific requirements, including all activity-specific requirements and impact thresholds, must be met for each MDSPGP-5 activity and the total extent of project impacts must not exceed the acreage and/or linear foot limit of the MDSPGP-5 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.1.f.(4)(a), the maximum total impact limits to nontidal waters of the United States for the single and complete project may not exceed 10,000 square feet in total area and/or 500 linear feet in total length. The road crossing and nontidal bank stabilization activities must still meet all Category A activity-specific requirements and impact thresholds.

A single and complete project with multiple impacts, that may be eligible for authorization under a Category A and a Category B activity, requires an application submittal to the Corps and review under the MDSPGP-5 Category B verification procedures. All specific requirements, including the activity-specific requirements and impact thresholds of the Category A activity and the Category B activity must be met and the total extent of project impacts must not exceed to total acreage and/or linear foot limit of the MDSPGP-5 activity with the highest specified acreage and/or linear foot limit. For example, if a road crossing is authorized under Category A of Section IV.B.1.(d)(1) with an associated nontidal bank stabilization authorized under Section IV.B.f.(4)(b), the maximum total impact limits to waters of the United States for the single and

complete project may not exceed 1/2 acre (21,780 square feet) in total area and/or 2,000 linear feet in total length. The road crossing activity must meet the Category A activity-specific requirements and impact thresholds, and the nontidal bank stabilization activity must meet the Category B activity-specific requirements and impact thresholds.

8. **Permit On-Site:** The permittee must ensure that a copy of the MDSPGP-5 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors must be expected to comply with all conditions of any general permit authorization.

9. **Authorized Activities in Navigable Waters Subject to Section 10 of the Rivers and Harbors Act of 1899:**

a. If future operations by the United States require removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work must cause unreasonable obstruction to the free navigation of the navigable water, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim must be made against the United States on account of any such removal or alteration.

b. The permittee acknowledges the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels and/or ice flows within the waterway. The issuance of this permit does not relieve the permittee from taking all proper steps to ensure the integrity of the structure permitted herein and the safety of vessels moored thereto from damage by wave wash and/or ice flows, and the permittee must not hold the United States liable for such damage.

c. The permittee must install and maintain, at his/her expense any safety lights, markers, and/or signals prescribed by the USCG, through regulations or otherwise, on the authorized facilities and/or structures. The permittee must contact the Commander (AOWW), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia, 23704, to ascertain the need for obstruction lights. Prior to commencing the construction or installation of an authorized structure in navigable waters of the United States, the permittee must submit a "Private Aids to Navigation Application" to the Commander of the USCG.

d. The permittee must provide location coordinates of the authorized structures, including minimum depth and other pertinent information to the USCG and request that a Local Notice to Mariners is issued regarding the authorized work.

10. **For Aerial Transmission Lines Across Navigable Waters:** The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the USCG for new fixed bridges, in the vicinity of the proposed aerial transmission line. These clearances are based on the low point of the line under conditions producing the greatest sag, taking into consideration temperature, load, wind, length of span, and type of supports as outlined in the National Electrical Safety Code:

NOMINAL SYSTEM VOLTAGE (kV)	Minimum additional clearance (ft.) above clearance required for bridges.
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

a. Clearances for communication lines, stream gauging cables, ferry cables, and other aerial crossings must be a minimum of ten feet above clearances required for bridges, unless specifically authorized otherwise by the District Engineer.

b. Corps Regulation ER 1110-2-4401 prescribes minimum vertical clearances for power communication lines over Corps lake projects. In instances where both the National Electrical Safety Code requirements and ER 1110-2-4401 apply, the greater minimum clearance is required.

B. National Concern:

1. **Historic Properties:** Any activity authorized by the MDSPGP-5 must comply with Section 106 of the National Historic Preservation Act. Maryland Department of the Environment, in cooperation with the Maryland Historic Trust, must conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require applicants to perform a survey of archaeological and historical resources in the project area. The Corps must determine whether National Historic Preservation Act Section 106 consultation is required. The applicant must notify the Corps if they have knowledge that the activity may affect any historic properties listed or eligible for listing, or that the applicant has reason to believe may be eligible for listing on the National Register of Historic Places. Upon discovery of any previously unknown historic, cultural, or archeological resources or remains while accomplishing the activity authorized by this permit, the permittee must immediately notify the Corps of what has been found, and avoid construction activities that may affect the resources or remains until the required coordination has been completed. The Corps will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. The permittee must not begin or continue work until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity may proceed. Information on the location and existence of historical resources can be obtained from the MHT, Office of Preservation Services, and the National Register of Historic Places. The Corps will conclude all tribal coordination in accordance with the District's tribal coordination procedures prior to verifying an activity authorized by MDSPGP-5.

2. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including but not limited to, reserved water rights and treaty fishing and hunting rights.

3. **National Lands:** Activities authorized by the MDSPGP-5 must not impinge upon the value of any Federal land, including but not limited to, National Wildlife Refuges, National Forests, National Parks, National Marine Sanctuaries, or any area administered by the FWS, U.S. Forest Service, or National Park Service (e.g., Assateague Island National Seashore).

4. **Endangered Species:** The MDSPGP-5 does not authorize any activity that may directly or indirectly affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal ESA; or which may directly or indirectly destroy or adversely modify the critical habitat of such species unless and until appropriate coordination with the applicable resource agency(s) is complete and all such issues are resolved in accordance with the applicable regulations and procedures. Prior to application submittal, applicants must conduct an initial review for ESA resources, including FWS and/or NMFS species or critical habitat, utilizing the appropriate website(s) provided below. A complete permit application must contain evidence that the applicant has already contacted and received a response from the FWS and/or NMFS concerning any Federally listed or proposed threatened and endangered species and designated or proposed critical habitat that may be affected by the proposed activity. For FWS ESA species, an applicant must use the FWS Chesapeake Bay Field Office Project Review website (FWS website tool) provided below to determine if any Federally listed species are present in the proposed project area. A complete application must contain one of the following: *If species or designated critical habitat are determined to be present in the proposed project area using the FWS website tool:* A FWS Official Species List tailored for the proposed project area must be obtained and submitted with the application. An Official Species List is considered valid for 90 days. *If no listed species or designated critical habitat are determined to be present in the proposed project area using the FWS website tool:* A report that includes an online self-certification letter, map of action area, and Official Species List must be obtained and submitted with the application. For NMFS species and/or critical habitat, an applicant must use the NOAA Fisheries Species Information and Maps website (NMFS website tool) provided below to determine if any Federally listed species or critical habitat are present in the proposed project area. A complete application must include mapping depicting the project location in relation to any Federally listed species and/or critical habitat. For assistance please contact Mr. Brian Hopper of NMFS Fisheries at 410.573.4592. MDE must conduct an initial review and notify the Corps and FWS or NMFS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. MDE, in cooperation with MD DNR, must conduct an initial review and notify the Corps and FWS if any Federally listed species or critical habitat is likely to be in the vicinity of the project. The Corps must determine if consultation with FWS or NMFS is required under Section 7 of the ESA. If consultation is required, the applicant, after notification, must not begin or continue work until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is eligible for authorization. Information on the location of threatened and endangered species and their critical habitat can be obtained from the offices of the FWS and NMFS or their web pages at: <https://www.greateratlantic.fisheries.noaa.gov/protected/section7/guidance/maps/index.html> and, <http://www.fws.gov/chesapeakebay/EndSppWeb/ProjectReview/Index.html> respectively.

National Marine Fisheries Service – Endangered Species Act Requirements:

a. **Interactions with National Marine Fisheries Service Federally Threatened or Endangered Species:** Any interaction between a sea turtle or any species listed now or in the future under Federal law as a threatened or endangered species ("listed species") (e.g., North

Atlantic right whale, humpback whale, shortnose sturgeon) and the vessels associated with the project must be reported to the NMFS as follows: If the animal appears alive and uninjured (i.e., breathing normally, no visible wounds, movement uninhibited), the permittee or its representative must report the incident to the NMFS Northeast Region Marine Mammal and Sea Turtle Stranding and Entanglement Hotline at (866) 755-6622 within 24 hours of returning from the trip on which they made the discovery. If the animal requires assistance, the call to the hotline must be made immediately. If the animal appears to be injured (i.e. bleeding, gasping for air, etc.) or dead, the permittee or its representative must also immediately call the hotline so the appropriate rehabilitation or stranding network representative can be contacted. The applicant must also notify the Corps of all correspondence and interaction with the NMFS within two calendar days. Additional information about any Federally threatened or endangered species may be obtained from the attached fact sheet or online at: http://www.nero.noaa.gov/prot_res/stranding/SpeciesOverview.html and at: http://www.nero.noaa.gov/prot_res/esp/. An interaction is defined as an entanglement or capture of a listed species or a strike/direct contact between vessels or equipment used for the project and a listed species.

b. **Vessel Buffer:** When listed species are sighted, vessels must attempt to maintain a distance of 50 yards (150 feet) or greater between the animal and the vessel whenever possible. State and Federal regulations prohibit approaching a right whale within a 500 yard (1,500 foot) buffer zone. Any vessel finding itself within the 500 yard (1,500 foot) buffer zone created by a surfacing right whale must depart immediately at a safe, slow speed. If other listed species are detected, vessels will reduce their speeds to 10 knots or to the maximum extent practicable to ensure human safety. If listed species are sighted off of a moving dredge, intentional approaches within 100 yards (300 feet) of the animal must be avoided. Vessels must reduce speeds to 4 knots or the lowest speed practicable to ensure human safety. Any interactions must be reported to the NMFS.

c. **Best Management Practices Applicable to Category A and Category B Activities within Tidal Waters and Wetlands:**

i. **Pile Driving for Category A Activities:** For the protection of listed species, pile driving methods must maintain noise level thresholds not to exceed 150 db re 1 μ Pa RMS or 206 dB peak re 1 μ Pa and must meet **one** of the following conditions:

- (1) Plastic or concrete piles must be less than 12 inches when a cushioned impact hammer or vibratory hammer is utilized for installation.
- (2) Timber piles must be 10 inches or less when a vibratory hammer is utilized for installation.
- (3) Vinyl or timber sheet piles must be 24 inches or less in width, as measured from the outer edge of corrugation to the inner edge of corrugation, when a cushioned impact hammer or vibratory hammer is used.
- (4) Pile driving activities must be located within freshwater tributaries or within tidal or nontidal wetlands.

(5) Piles of any size/type with any hammer method must be installed behind diversion structures or in the dry when the tide is out in the intertidal zone.

(6) Piles of any size/type with any hammer method must be installed between November 30 and March 15.

(Note: Any pile driving activity that does not meet one of the conditions above must be reviewed by the Corps as a Category B activity or an alternate Corps permit review process, as appropriate.

ii. **Pile Driving for Category A and Category B Activities:** For Category A and Category B activities, pile driving must be initiated with a soft start each day of pile driving, building up power slowly from a low energy start-up over a 20 minute period to allow for fish and other wildlife to leave the area.

iii. **Sediment Disturbing Activities Time-of-Year Restriction:** Sediment disturbing activities, which includes pile driving activities, are prohibited during the period April 1 through June 30 within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries with salinity levels <6 ppt for the protection of shortnose sturgeon during early life stages in these waters.

5. **Essential Fish Habitat (EFH) and Fish and Wildlife Coordination Act:** Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires an EFH consultation with the NMFS for any action or proposed action authorized, funded, or undertaken by a Federal agency that may adversely affect EFH. Essential Fish Habitat has been defined by Congress as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. NMFS has determined that many of the MDSPGP-5 Category A activities are eligible for EFH general or programmatic concurrence and require no further EFH consultation. National Marine Fisheries Service, in consultation with the District, has determined that individual EFH consultation is needed for some projects potentially eligible for authorization under Category A of the MDSPGP-5 that may adversely affect EFH. The Corps will coordinate with NMFS as part of the Category B review procedures. EFH conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. If the EFH coordination and consultation requirements cannot be resolved under the MDSPGP-5 process, an alternate Corps permit review process is required for the project.

6. **Wild and Scenic Rivers:** No activity is authorized under the MDSPGP-5 that occurs in a component of the National Wild and Scenic River System, including rivers officially designated by Congress as study rivers for possible inclusion in the system, while such rivers are in an official study status, unless the appropriate Federal agency, with direct management responsibility for the river, has determined in writing that the proposed activity will not adversely affect any National Wild and Scenic River, including study rivers. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U. S. Forest Service, Bureau of Land Management, or FWS).

7. **Federally Authorized Civil Works Projects:**

a. **Federal Navigation Projects:** The MDSPGP-5 does not authorize interference with any existing or proposed Federal navigation projects. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work must cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim must be made against the United States on account of any such removal or alteration. (See VII.A.9.a.)

b. **Federal Navigation Channel Setbacks:** All activities must comply with the Baltimore District Minimum Setback Guidance for Structures Along Federally Authorized Channels. Please see the Baltimore District's Regulatory webpage to view this guidance: <http://www.nab.usace.army.mil/Missions/CivilWorks/NavMaps.aspx>

c. **Other Federally Authorized Civil Works Properties and/or Projects (e.g., flood control, dams, and reservoirs):** The MDSPGP-5 does not authorize interference to any proposed or existing Federally authorized civil works project.

d. **Activities Affecting Structures or Works Built by the United States:** Engineer Circular (EC 1165-2-216) provides policy and procedural guidance for processing requests by private, public, tribal, or other federal entities, to make alterations to, or temporarily or permanently occupy or use, any US Army Corps of Engineers (USACE) federally authorized civil works project, pursuant to 33 USC 408 (Section 408). Proposed alterations must not be injurious to the public interest or affect the USACE project's ability to meet its authorized purpose. The decision on a Department of the Army permit application pursuant to Section 10/404/103 cannot and will not be rendered prior to the decision on the Section 408 request. An activity that requires Section 408 permission is not authorized by the MDSPGP-5 until the Corps issues the Section 408 permission to alter, occupy, or use the USACE project, and the Corps issues a written MDSPGP-5 verification.

8. **Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes;

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;

d. Design or construction deficiencies associated with the permitted work;

e. Damage claims associated with any future modification, suspension or revocation of the MDSPGP-5 or any specific MDSPGP-5 verification.

9. **Navigation:** Projects authorized under the MDSPGP-5 must not cause interference with navigation, and no attempt must be made by the permittee to prevent the full

and free use by the public of all navigable waters at or adjacent to projects authorized under the MDSPGP-5. Nothing in the MDSPGP-5 must in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, from exercising his legal authority to protect the public interest in navigation or from exercising his authority under the Navigation Servitude of the United States. (See VII.A.9.)

10. Fills Within 100-Year Floodplain: The activity must comply with applicable Federal Emergency Management Agency approved State or local floodplain management requirements.

11. Safety of Impoundment Structures: To ensure that all impoundment structures are safely designed, the Corps may require non-Federal applicants to demonstrate that the structures comply with established State dam safety criteria or have been designed by qualified persons. The Corps may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

12. Migratory Birds and Bald and Golden Eagles: The permittee is responsible for obtaining any "take" permits required under the FWS's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the FWS to determine if such "take" permits are required for a particular activity.

13. Environmental Justice: Activities authorized under this MDPSGP-5 must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

14. Hazardous Wildlife Attractants On or Near Airports: Permittees must consider the activity's effects on aviation safety and design a project so it does not create a wildlife hazard. All authorized activities that may attract hazardous wildlife must be consistent with the siting criteria and land use practice recommendations stated in Section 1-3 of the Federal Aviation Administration Advisory Circular 150/5200-33. This document can be found at: http://www.faa.gov/documentLibrary/media/advisory_circular/150-5200-33B/150_5200_33b.pdf

15. Water Quality Certification: Permittees must satisfy any conditions imposed by the State of Maryland and EPA, where applicable, in their Water Quality Certification for the MDSPGP-5 pursuant to Section 401 of the Clean Water Act. On September 13, 2016, the Maryland Department of the Environment issued WQC for the MDSPGP-5 subject to the condition that the applicant obtains all necessary State permits and approvals. The Corps or State may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

16. Coastal Zone Management Consistency (CZM): The Corps determined that all activities authorized under the MDSPGP-5 will be carried out in a manner consistent with the Coastal Zone Management Program pursuant to Section 307 of the Federal Coastal Zone Management Program of 1972, as amended. On September 13, 2016, the Maryland Department of the Environment concurred with the Corps' determination provided that the applicant obtains all necessary State permits and approvals. Permittees must satisfy any additional conditions imposed by the State of Maryland in their CZM concurrences for the MDSPGP-5.

17. **Coastal Barrier Resources Act (CBRA):** Federal funding for certain activities requiring Corps authorization may be prohibited within the established Coastal Barrier Resources System, which is a defined set of coastal barrier units located along the Atlantic, Gulf of Mexico, Great Lakes, U.S. Virgin Islands, and Puerto Rico coasts. Activities authorized under the MDSPGP-5 must comply with the CBRA. More detailed information can be found at: <http://www.fws.gov/cbra>.

C. Minimization of Environmental Impacts:

1. **Avoidance and Minimization:** Discharges of dredged or fill material into waters of the United States and adverse impacts of such discharges on the aquatic ecosystem, both temporary and permanent, must be avoided and minimized to the maximum extent practicable at the project site (i.e., on-site). Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

2. **Mitigation Standards:** The Corps will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the adverse effects on the aquatic environment are minimal and that the project is eligible for authorization under the MDSPGP-5:

a. Wetlands: Compensatory wetland mitigation at a minimum one-for-one ratio will be required for all permanent tidal or nontidal wetland losses that exceed 5,000 square feet and that require an application submittal for Corps authorization, unless the Corps determines in writing that either some type of mitigation or ratio of mitigation other than a one-to-one ratio would be more appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 5,000 square feet or less that require an application submittal for Corps authorization, the Corps may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested and scrub-shrub wetlands; 1:1 for herbaceous emergent wetlands, and 1:1 for permanent conversion of forested wetlands to herbaceous emergent wetlands. Maintenance of previously authorized activities typically does not require mitigation. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

b. Streams and Other Open Waters: Compensatory mitigation at a minimum one-for-one ratio will be required for permanent losses of streams or other open waters that exceed 200 linear feet and that require an application submittal for Corps authorization, unless the Corps determines in writing that either some other type of mitigation would be more appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. Compensatory mitigation, such as stream rehabilitation, enhancement (including enhancement of riparian buffers), or preservation, focusing on functional replacement, may be required to ensure that the activity results in minimal adverse effects on the aquatic environment. In addition, compensatory mitigation plans for losses of streams and other open waters will normally include a requirement for the restoration or establishment, maintenance, and site protection of riparian areas next to open waters. Riparian buffer areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat impact concerns. Typically, the riparian

area will not be less than 25 feet wide on each side of the stream, but the Corps may require wider riparian areas to address documented water quality or habitat loss concerns. Furthermore, the Corps may determine that restoration or establishment of a riparian area along a single bank or shoreline is sufficient when it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters.

c. All compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR Part 332.

d. The applicant is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment. Applicants may propose the use of mitigation banks, in-lieu-fee programs, or separate permittee-responsible mitigation.

e. When permittee-responsible mitigation is the proposed compensatory mitigation option, the applicant is responsible for submitting a compensatory mitigation plan. A conceptual or detailed mitigation plan may be used by the Corps to make the decision on the MDSPGP-5 verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the Corps prior to the commencement of work in waters of the United States. The special conditions of the MDSPGP-5 verification must clearly indicate the party or parties responsible for the implementation, performance, and, if required, the long-term management of the permittee-responsible compensatory mitigation project.

f. When mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number and resource type of credits to be provided. The special conditions of the MDSPGP-5 verification must either identify the specific mitigation bank or in-lieu fee program, or state that the specific mitigation bank or in-lieu fee program used to provide the required compensatory mitigation must be approved by the Corps before the credits are secured and prior to the commencement of the work in waters of the United States.

g. For losses of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee.

h. Compensatory mitigation will not be used to increase the impact thresholds allowed by the acreage limits of the MDSPGP-5. For example, if an activity has an acreage limit of $\frac{1}{2}$ acre, it cannot be used to authorize any project resulting in temporary and permanent impacts greater than $\frac{1}{2}$ acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the impacted waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the terms and conditions, including the acreage limits, also satisfies the minimal impact requirement associated with the MDSPGP-5.

3. Work in Wetlands: Heavy equipment working in wetlands must be avoided if possible and, if required, soil and vegetation disturbance must be minimized by using techniques such as timber mats, geotextile fabric, and vehicles with low-pressure tires. Disturbed areas in wetlands must be restored to preconstruction contours and elevations upon completion of the work.

4. Temporary Fill and Mats: Temporary fill and the use of mats are both considered a discharge of fill material and must be included in the quantification of impact area authorized by the MDSPGP-5. Temporary fill (e.g., access roads, cofferdams) in waters and wetlands authorized by the MDSPGP-5 must be properly stabilized during use to prevent erosion. Temporary fill in wetlands must be placed on geotextile fabric laid on the existing wetland grade. Upon completion of the work, all temporary fills must be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas must be restored to their original, pre-construction contours and revegetated with native wetland species.

5. Erosion and Sediment Control: Adequate erosion and sediment control measures, practices, and devices, such as turbidity curtains in tidal waters, vegetated filter strips, geotextile silt fences, phased construction, or other devices or methods, must be used to reduce erosion and retain sediment on-site during and after construction. These devices and methods must be capable of (a) preventing erosion, (b) collecting sediment and suspended and floating materials, and (c) filtering fine sediment. Erosion and sediment control devices must be removed when the work is complete and the site has been successfully stabilized. The sediment collected by these devices must be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills must be permanently stabilized at the earliest practicable date. In-stream work must be conducted "in the dry" whenever practicable. This should be accomplished using stream diversion devices, other than earthen or stone cofferdams. In addition, work in waters of the United States should be performed during periods of low-flow or no-flow, whenever practicable.

6. Aquatic Life Movements: No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through, or spawn/nursery within the area (e.g., anadromous/catadromous fish); unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. A low flow channel must be maintained through any discharges placed for armoring across the channel so as to not impede flow in the waterway and/or not to block or impede the movements of anadromous, estuarine, and resident fish. Permanent culverts or pipes placed in streams must be depressed in accordance with the State of Maryland regulations. If depression of the culvert is not practicable, the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipe/culvert. Options that need to be considered include the use of a bridge, bottomless pipe, partial depression, or other measures to provide for the movement of aquatic organisms. The documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for fish passage.

7. Water Crossings:

a. All temporary and permanent crossings of waterbodies must be suitably bridged, culverted, or otherwise constructed to withstand and to prevent the restriction of high flows and tidal flows; to maintain existing low flows; and to prevent the obstruction of movement by aquatic life indigenous to the water body, including anadromous, estuarine, and resident fish species.

b. All water crossings (e.g., utility lines and road crossings) must be constructed roughly perpendicular to waters of the United States, including streams and adjacent wetlands, except for instances where the existing on site conditions would require a diagonal crossing of the waterway. Where a utility line or access road is constructed parallel to a stream corridor, an undisturbed buffer must be maintained between the utility line/access road and the waterway to avoid or minimize potential future impacts to waters of the United States. These potential impacts would include such issues as sewer line leaks or failures, future stream channel meandering, stream bank instability and failure, and right-of-way maintenance.

c. Water crossings must be constructed "in the dry" whenever practicable. This should be accomplished by using stream diversion devices other than earthen or stone cofferdams.

d. Equipment must cross streams only at suitably constructed permanent or temporary crossings.

e. Temporary structures and fills must be removed and the area restored to its original contours and elevations, or to the conditions specified in the approved plans. The temporary structures and the areas of fill associated with these structures must be included in the total waterway/wetlands impacts.

8. Discharge of Pollutants: All activities that are authorized under the MDSPGP-5 and that involve any discharge or relocation of pollutants into waters of the United States must be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. 1251 et. Seq.), and applicable State and local laws and regulations. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

9. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill materials in fish and shellfish spawning or nursery areas during spawning seasons, must be avoided. Impacts to these areas must be avoided or minimized to the maximum extent practicable during all other times of year. Activities that result in the physical destruction (e.g., through excavation, dredging, mining, fill, or significant downstream sedimentation by substantial turbidity) of an important spawning/nursery area (as determined by National Marine Fisheries Service and/or FWS) are not authorized by this MDSPGP-5.

10. Waterfowl Breeding and Wintering Areas: Discharges into breeding and wintering areas for migratory waterfowl must be avoided to the maximum extent practicable.

11. Environmental Values: The permittee must make every reasonable effort to construct or operate the work authorized under the MDSPGP-5 in a manner that maintains as many environmental values as practicable, and that avoids or minimizes any adverse impacts on existing fish, wildlife, and natural environmental values.

12. Management of Water Flows: To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows. The activity may alter the pre-construction course,

condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

13. Water Supply Intakes: No discharge of dredged or fill material may occur in the proximity of a public water supply intake.

D. Procedural Conditions:

1. Inspections: The permittee must permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the work is being performed in accordance with the terms and conditions of the MDSPGP-5. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work, and post-dredging survey drawings for any dredging work.

2. Compliance Certification: Every permittee who receives a written MDSPGP-5 verification must submit a signed Compliance Certification Form within 60 days following completion of the authorized work and any required mitigation (but not mitigation monitoring, which requires separate submittals). Failure to submit the Compliance Certification Form by the permittee could result in the Corps taking appropriate non-compliance enforcement action against the permit holder. The Corps will provide a blank copy of the Compliance Certification Form to the permittee with the MDSPGP-5 verification. The completed form will include the following:

a. A statement that the authorized work either was or was not done in accordance with the MDSPGP-5 verification, including any general and/or specific conditions. If the activity was not done in accordance with the MDSPGP-5 verification, including any general and/or specific conditions and requirements, the permittee must describe the specifics of the deviation from the authorized activity.

b. A statement that any required mitigation was or was not completed in accordance with the permit conditions. If the mitigation was not completed in accordance with the permit conditions, the permittee must describe the specifics of the deviation from the permit conditions.

c. The signature of the permittee, certifying the completion of the work and compensatory mitigation.

After the project is completed, the certification must be sent to the Baltimore District at the following address:

**U. S. Army Corps of Engineers
Baltimore District
Attn: Regulatory
10 S. Howard Street
Baltimore, Maryland 21201**

3. Transfer of MDSPGP-5 Verifications: If the permittee sells the property associated with a MDSPGP-5 verification, the permittee may transfer the MDSPGP-5 verification to the new owner by submitting a letter to the Baltimore District Corps of Engineers office to validate the transfer. A copy of the MDSPGP-5 verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this MDSPGP-5 are still in existence at the time the property is transferred, the terms and conditions of this MDSPGP-5, including special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this MDSPGP-5 permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

4. Maintenance: The permittee must properly maintain the work or structure authorized by the MDSPGP-5 in good condition and in compliance with the terms and conditions of the MDSPGP-5, including maintenance to ensure public safety.

5. Property Rights: The MDSPGP-5 does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

6. Modification, Suspension and Revocation: The MDSPGP-5, or any verification under it, may be either modified, suspended, or revoked, in whole or in part, pursuant to DA policies and procedures and any such action must not be the basis for any claim for damages against the United States. The Corps will issue a public notice announcing any changes to the MDSPGP-5 when they occur; however, it is incumbent upon the permittee to remain informed of any changes to the MDSPGP-5

7. Restoration: The permittee, upon receipt of a notice of revocation of authorization under the MDSPGP-5, may be required to restore the wetland or waterway to its former condition, without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

8. Special Conditions: The Corps may impose special conditions on any project authorized under the MDSPGP-5, in cases where the Corps determines that special conditions are necessary to avoid or minimize adverse effects on the environment or on any other factor of the public interest. Failure to comply with all conditions of the authorization/ verification, including special conditions, will constitute a permit violation/unauthorized work and may subject the permittee to criminal, civil, or administrative penalties, and/or restoration.

9. False or Incomplete Information: In granting authorization pursuant to this permit, the Baltimore District will rely upon information and data provided by the permittee. If the Corps or MDE verifies the project under the MDSPGP-5 and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the MDSPGP-5 verification may be revoked, in whole or in part, and/or the United States may institute appropriate legal proceedings.

10. Compliance: Any activity performed in waters of the United States, including wetlands and navigable waters that is not in compliance with all the terms and conditions of the MDSPGP-5, which includes the MDSPGP-5 authorized activity activity-specific requirements,

constitutes unauthorized work and is subject to an enforcement action by the Corps or the EPA. Furthermore, the MDSPGP-5 does not delegate any Section 404 enforcement or regulatory authority. Unauthorized work in waters of the United States, including wetlands and navigable waters, is subject to one or more of the following responses by EPA and/or the Corps:

- a. A Cease and Desist order and/or an administrative compliance order requiring remedial action.
- b. Initiation and assessment of a Class I administrative penalty order pursuant to Section 309(g) of the CWA.
- c. Initiation and assessment of a Class II administrative penalty for continuing violation pursuant to Section 309(g) of the CWA.
- d. Referral of the case to the U. S. Attorney with a recommendation for a civil or criminal action.
- e. If the Corps determines that an after-the-fact application is appropriate, it will be reviewed following the appropriate procedures.
- f. Any other appropriate response.



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
10 S. HOWARD STREET
BALTIMORE, MD 21201

201960727

Corps Permit Tracking No.

MDSPGP-5
ACTIVITY b (1)
General Maintenance

The authorized General Maintenance activities must comply with the following applicable activity specific conditions indicated by an "X" in the boxes below, all general conditions of this permit, and any project-specific special conditions.

This activity authorizes discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill. This activity authorizes minor deviations in the configuration of the structure or filled area, including changes in materials, construction techniques, current construction codes, or safety standards that are necessary to make the repair, rehabilitation, or replacement, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. Currently serviceable means that the structure or fill is usable in its current condition, or with some maintenance, but not so degraded as to essentially require reconstruction. This activity also authorizes the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). This activity does not apply to new stream restoration projects. This activity also authorizes repair, rehabilitation, or replacement in-kind of structures or fills destroyed or damaged by storms, floods, fire or other discrete events. This activity authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance. This activity also authorizes temporary structures, work, and discharges of dredged or fill material necessary for associated construction activities or repairs, including but not limited to stream diversion devices, access fills, structures and/or fills for dewatering of construction sites, and placement of construction matting (Sections 10 and 404; all waters of the United States).

☒ **Category A Impact Limits and Requirements:**

- (i) No application is required for Corps authorization except for replacement of previously authorized, currently serviceable structures, located along a Federally authorized navigation channel or civil works project, that are destroyed by an act of nature or other sudden event, or for modification of previously authorized, currently serviceable structures located along Federally authorized navigation channels or civil works project. In these cases, an application is required to be submitted to the Corps for review under Category B or alternate Corps permit review procedures, as appropriate.
- (ii) The total temporary (i.e., construction impacts including stream diversion devices, construction mats, etc.) and permanent impacts to waters of the United States, which

MDSPGP-5
ACTIVITY (b-1)
- 2 -

includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 1.0 acre (43,560 square feet) and/or 2,000 linear feet of streams, rivers, and other open waters.

- (iii) The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend any further than 200 linear feet in any direction from the structure.
- (iv) Any impact to waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.
- (v) The following conditions are applicable to Coastal Plain streams, and Harford and Cecil County Piedmont streams:
 - (1) Permanent culvert pipes that are greater than 24 inches in diameter and bridge/arch footers must be countersunk a minimum of 12 inches below the natural stream invert.
 - (2) Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are exempt from these countersinking (i.e., depressing) requirements and must be constructed in accordance with the State of Maryland regulations. Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are eligible for Category A review with specific documentation concerning site conditions and limitations on depressing the culvert, cost, and engineering factors that prohibit depressing the pipes/culvert.
 - (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers (except those placed in streams on bedrock or over buried utility lines) that cannot be countersunk in accordance with condition (1) above are not eligible for Category A and must be reviewed under Category B or alternate Corps permit review procedures, as appropriate.
- (vi) During the period March 16 through November 30, dredging within tidal waters in depths greater than -3 feet mean low water must be conducted behind turbidity curtains or other exclusion structure that would prevent aquatic animals from entering the dredge footprint at any time of year. Dredging activities that would occur in this time period without the use of turbidity curtains or other exclusion devices must be reviewed under Category B or an alternative permit review.
- (vii) Impacts to submerged aquatic vegetation are not authorized under Category A.
- (viii) Pile driving activities authorized under Category A must utilize pile driving methods identified in Section VII.B.4.c.i.

MDSPGP-5
ACTIVITY (b-1)
- 3 -

☐ **Category B Impact Limits and Requirements:**

- (i) The total temporary (i.e., construction impacts including stream diversion devices, construction mats, etc.) and permanent impacts to waters of the United States, which includes tidal and nontidal wetlands, streams, rivers, navigable waters, and other open waters, are not to exceed 1.0 acre (43,560 square feet) and/or 2,000 linear feet of streams, rivers, and other open waters.
- (ii) Removal of sediments must not extend any further than 500 linear feet in any direction from the structure.
- (iii) Any impact to waters of the United States, including wetlands, associated with this activity is to be minimized below these impact limits to the greatest extent possible.
- (iv) The following conditions are applicable to Coastal Plain streams, and Harford and Cecil County Piedmont streams:
 - (1) Permanent culvert pipes that are greater than 24 inches in diameter and bridge/arch footers must be countersunk a minimum of 12 inches below the natural stream invert.
 - (2) Permanent culvert pipes and bridge/arch footers placed in streams on bedrock or over buried utility lines are exempt from these countersinking (i.e., depressing) requirements and must be constructed in accordance with the State of Maryland regulations.
 - (3) All permanent culvert pipes greater than 24 inches in diameter and bridge/arch footers placed in streams must be countersunk in accordance with condition (1) above (except those placed in streams on bedrock or over buried utility lines), unless the Corps and MDE waive the countersinking (i.e., depressing) requirement by making a written determination concluding that countersinking is not practicable and will result in minimal adverse effects.
 - (4) If countersinking of the culvert or footer is not practicable in accordance with condition (1) above (except those placed in streams on bedrock or over buried utility lines), the applicant must submit a narrative, along with their application, documenting measures evaluated to minimize disruption of the movement of aquatic life, as well as specific documentation concerning site conditions and limitations on depressing the culvert/footer, cost, and engineering factors that prohibit depressing the culvert/footer. Preferred alternative options that must be considered include the use of a bridge or bottomless pipe. Other alternative options may include partial depression or other measures to provide for the movement of aquatic organisms. This documentation must also include photographs documenting site conditions. The applicant may find it helpful to contact their regional fishery agency for recommendations about the measures to be taken to allow for migratory fish passage.

MDSPGP-5
ACTIVITY (b-1)
- 4 -

☒ **Requirements Applicable to Both Category A and Category B Activities:**

- (i) The application must include information regarding the original design capacities and configurations of the structures and fills (e.g., outfalls, intakes, impoundments, canals, culverts, etc.).
- (ii) An application is required to be submitted to the Corps for review under Category B for authorization of previously authorized, currently serviceable structures located along Federally authorized navigation channels that are destroyed by an act of nature or other sudden event or that are proposed to be modified.
- (iii) The repair, rehabilitation, or replacement activity is limited to the original dimensions or configuration, except for minor deviations due to changes in materials, construction techniques, or current construction codes or safety standards. Minor deviations in the configuration of the structure or filled area must not exceed the minimum necessary to make the repair, rehabilitation, or replacement. New bank stabilization measures that were not included in the previously authorized structure or fill would require a separate authorization from the Corps.
- (iv) Repair, rehabilitation, or replacement of an existing serviceable structure should not result in the displacement of in-stream habitats or features important to anadromous, estuarine, and resident fish, such as plunge or scour pools. Work under this activity must not impede flow in the waterway and/or must not block or impede the movements of anadromous and resident fish.
- (v) Culverts must be adequately sized to allow for the passage of ordinary high water with the depression and invert restrictions taken into account.
- (vi) Extensions of existing pipes or culverts that are not depressed below the stream invert are exempt from the requirement to depress the culvert.
- (vii) The structure or fill must not be put to uses differing from those uses specified or contemplated for it in the original permit or the most recent authorized modification.
- (viii) Repair, rehabilitation, or replacement of previously authorized, currently serviceable structures or fills destroyed or damaged by storms, floods, fire, or other discrete events must be started or under contract to start within 2 years of the date that they were damaged or destroyed.
- (ix) Maintenance of existing stormwater management facilities must be performed in accordance with any maintenance plan to restore to the design as originally approved and constructed, which includes limiting excavation to the original contours.
- (x) This activity does not authorize the discharge of dredged or fill material for the purpose of reclaiming land lost through gradual erosion processes.

MDSPGP-5
ACTIVITY (b-1)
- 5 -

- (xi) This activity does not authorize any maintenance dredging, beach restoration, stream restoration, stream relocation, or stream channelization, and/or repair or replacement of bulkheads.
 - (xii) This activity does not authorize blasting or other forms of uncontained in-water demolition.
 - (xiii) All excavated materials must be deposited and retained in an upland (non-wetland) area.
 - (xiv) Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must be of materials and placed in a manner that will not be eroded by expected high flows. Work should be accomplished by using stream diversion devices, other than earthen or stone cofferdams or causeways.
 - (xv) Upon completion of the project, all temporary construction materials must be removed and stabilized with straw bales, silt fence, or other erosion and sediment control devices to prevent its reentry into waters of the United States, including wetlands, and the site returned to preconstruction conditions.
 - (xvi) All temporary construction structures and materials (i.e. access roads, fill, dewatering devices, stream diversions, etc. must be removed within 14 calendar days after the structure is no longer needed, subject to any time of year restrictions. The affected areas must be returned to pre-construction conditions which include contours, elevations, stream substrate and re-vegetation with native wetland species. If time-of-year restrictions interfere with the removal of the structures, the permittee must immediately contact the Corps and/or MDE Project Manager for further instruction.
- ☐ **Project-Specific Special Conditions apply (See Corps verification letter for these conditions.)**



DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, CORPS OF ENGINEERS
ATTN: REGULATORY BRANCH
10 S. HOWARD STREET
BALTIMORE, MD 21201

Operations Division

MDSPGP-5 PERMIT COMPLIANCE CERTIFICATION FORM (10/1/16)

Corps Permit Tracking No. 201960727
 Category & Activity Number A-b(1)
 Project Name Replacement of Structure No. 09045X0 on MD 331 over Tributary to Nanticoke River
 Applicant Name MD SHA
 Waterway Nanticoke River
 County Dorchester

Dear Permittee:

In accordance with the compliance certification condition of your MDSPGP-5 authorization, you are required upon completion of all permitted work, or if mitigation/compensation is required, within 60 days following completion of the authorized work and any required mitigation (but not the mitigation monitoring, which requires separate submittals), to complete and sign this certification form and return it to the Corps of Engineers, Baltimore District, ATTN: CENAB-OPR, 10 S. Howard Street, Baltimore, Maryland 21201.

Please note that the permitted activity is subject to compliance inspections by U.S. Army Corps of Engineers representatives. As a condition of this permit, failure to return this notification form, provide the required information below, or to perform the authorized work in compliance with the permit, can result in suspension, modification or revocation of your authorization in accordance with 33 CFR Part 325.7 and/or administrative, civil, and/or criminal penalties, in accordance with 33 CFR part 326.

Please provide the following information:

1. Date authorized work commenced: _____
2. Date authorized work completed: _____
3. Was all work and any required mitigation, completed in accordance with your MDSPGP-5 authorization, including all general and/or specific conditions? YES___ NO ___
4. MDSPGP-5 projects authorized under Category A involving pile driving activities that are within all tidal waters of the Chesapeake Bay in Maryland and its tidal tributaries must meet one of the following conditions for the protection of listed species (See Section VII.B.4.c(1) of the MDSPGP-5). Pile driving activities may include but are not limited to, pier construction, marina reconfiguration, bulkhead construction, boat ramp finger pier construction, sheet pile driving, etc. Please place an "X" below next to the pile driving method(s) that was used for the authorized pile driving work:

- _____ (a) Plastic or concrete piles must be less than 12 inches when a cushioned impact hammer or vibratory hammer is utilized for installation.
- _____ (b) Timber piles must be 10 inches or less when a vibratory hammer is utilized for installation.
- _____ (c) Vinyl or timber sheet piles must be 24 inches or less in width, as measured from the outer edge of corrugation to the inner edge of corrugation, when a cushioned impact hammer or vibratory hammer is used.
- _____ (d) Pile driving activities must be located within freshwater tributaries or within tidal or nontidal wetlands.
- _____ (e) Piles of any size/type with any hammer method must be installed behind diversion structures or in the dry when the tide is out in the intertidal zone.
- _____ (f) Piles of any size/type with any hammer method must be installed between November 30 and March 15.

5. Explain in detail any deviations to the authorized work and/or mitigation (use additional sheets if necessary)

6. Wetland Mitigation: Required? YES _____ NO _____
- a. Maryland State Wetlands Compensation Fund used? YES _____ NO _____
 - b. Required Completion Date: _____
7. Wetland Mitigation Completed? YES _____ NO _____ Date Completed: _____
- a. Mitigation Monitoring Reports Required? YES _____ NO _____
8. Please attach labeled photographs showing completed work including mitigation area(s).

I hereby certify that, except as noted above, that all work, including mitigation, has been completed in accordance with the terms and conditions, including special conditions of the above referenced permit.

Signature of Permittee _____ Date _____

Signature of Contractor/Agent _____ Date _____

Address _____

Contractor Address _____

Telephone: _____

Contactore Telephone _____



FINAL APPROVAL FOR STORMWATER AND SEDIMENT CONTROL

PRD No: 17-PR-0100
Description: Structure 09045X0 over Branch of Nanticoke River
Design Firm: WRA

Contract No: DO2035180
Road: MD 331
Date Submitted: 10/02/2019

Final Approval for stormwater management and sediment control is hereby granted to the Maryland Department of Transportation State Highway Administration (MDOT SHA) in compliance with Environment Article, Section 4-106 and 4-205 Annotated Code of Maryland. Final Approval is based on the Project Data Summary and is subject to the following conditions:

1. This approval shall become null and void if the construction authorized herein has not been completed within three years from the granting of this approval unless an extension has been requested, and is granted, by the MDOT SHA Plan Review Division (PRD).
2. This approval is subject to all laws and regulations now in effect, and may be revoked if it is subsequently determined that this authorization violates other laws of the State.
3. The location and dimensions of all sediment control structures, stormwater management facilities, grading, excavation, and fill shall be in accordance with the latest approved plans. Changes to the approved plans requires written approval from PRD. The field office shall have a copy of this approval, the associated plans, and copies of any approved modifications available at the construction site for reference during the construction period. Contractor requests for minor field changes to erosion and sediment control should be submitted online through the MDOT SHA Quality Assurance Toolkit.
4. Off-site borrow or waste sites located on private property require Soil Conservation District approval and may require local and county approvals. Sites located on State property require PRD approval. Maryland Department of the Environment (MDE) approval is required for sites located on federal property. Local approval numbers for off-site borrow or waste sites shall be furnished to the MDOT SHA Regional Environmental Coordinator.
5. The authorized MDOT SHA agent shall notify the MDOT SHA Regional Environmental Coordinator at (410) 365-0164, at least seven days prior to initiation of the project, and within five days after the construction activities end.
6. Projects with a Limit of Disturbance (LOD) of 1.0 acres or greater require an approved Notice of Intent (NOI) from MDE prior to the start of construction.
7. For projects that include the construction of new stormwater management facilities, as-builts must be completed and approved prior to the project closeout.

Approved By: Matthew Keenan
Matthew Keenan, P.E., Chief
Plan Review Division

Date: 10/16/2019

Project Data Summary

Points of Investigation (POI/LOI)	1 POI.
IART	0.00 ac.
Limit of Disturbance (LOD)	0.26 ac.
ESD to MEP Met?	Yes.
Water Quality (WQv)	Addressed by 3.3.A waiver request.
Nanticoke River Watershed (02-13-03)	0.00 ac.
Channel Protection Volume (Cpv)	Not Required.
Water Quantity Control (Qp/Qf)	Not Required.
Pond Code 378 / Dam Safety	Not Applicable.
Wetlands and Waterways	Applicable.

TERMS AND CONDITIONS

TC SECTION 2
BIDDING REQUIREMENTS AND CONDITIONS

DELETE: TC-2.05 — DELIVERY OF BIDS in its entirety.

INSERT: The following.

TC-2.05 DELIVERY OF BIDS

The bid shall be submitted only via the Administration-required electronic bidding software and website. Paper copy submittals of the bid will not be accepted, except for the Proposal Guaranty. An authorized representative is required to sign the bid electronically. The Administration may choose to reject a bid if it is not electronically signed by an authorized representative.

The bidder shall ensure delivery of its bid with all required components and attachments, including, but not limited to:

(a) Schedule of Prices.

(b) Proposal electronic bidding file with Bidder's Certificate.

(c) Bid Security:

(1) An electronic verification of the bid bond submitted with the bid. A paper submission of the bid bond is not acceptable.

(2) A clear electronic image of all other acceptable forms of proposal guaranty must be uploaded to Manual Verification tab for Bid Bond and submitted with the bid. The original proposal guaranty with the contractor name, contract number and the bid opening date must be sent to or delivered to: Attention: C/O Contracts Award Team, Building #4, Maryland State Highway Administration, located at 7450 Traffic Drive, Hanover MD 21076. It must be received by the Administration no later than three business days after bid opening.

(3) No bid will be considered unless the proposal guaranty or an evidence thereof is received by the Administration in proper form by the bid opening date and time. An acknowledgement may be obtained by the bidder as a proof of proposal guaranty delivery.

(d) MBE/DBE forms.

(e) Other related documents as specified in the Contract.

SPECIAL PROVISIONS
TC-2.05 — DELIVERY OF BIDS

CONTRACT NO. DO2035180
2 of 2

The Bidder is solely responsible for any errors and for the timely submission of the bid, all components thereof and all attachments thereto through the electronic bidding system. The Administration assumes no responsibility for any claim arising from the failure of any Bidder or of the electronic delivery system to cause any bid, its component(s), or attachment(s) thereto to not be delivered or to be corrupted during delivery.

SPECIAL PROVISIONS

TC — 4.02 FAILURE TO MAINTAIN PROJECT

CONTRACT NO. DO2035180

1 of 1

TERMS AND CONDITIONS**TC SECTION 4
CONTROL OF WORK****TC-4.02 FAILURE TO MAINTAIN PROJECT**

ADD: As a third paragraph.

Additionally, an appropriate deduction will be made from the Contractor's next progress estimate for each day or portion thereof that Maintenance of Traffic deficiencies exist, and will continue until the deficiencies are satisfactorily corrected and accepted by the Engineer. Any portion of a day will be assessed a full day deduction. The deduction will be equal to a prorata share of the lump sum price bid for Maintenance of Traffic or an amount prorated from the Engineer's estimate, whichever is more. The amount prorated will be the per diem amount established by using the working days (based upon calendar dates when required) divided into the total value of the bid item or the Engineer's estimate of that item, whichever is more.

The above noted deduction will be assessed on the next progress estimate if:

The Contractor does not take action to correct the deficiencies and properly assume the responsibilities of maintaining the project (as determined by the Engineer) within four hours of receiving a notice to comply with the required maintenance provisions.

The deduction will be equal to the daily prorated share of the lump sum price bid for Maintenance of Traffic or \$1,000.00 per day, whichever is more for each day or portion thereof that the deficiencies exist, and will continue until the deficiencies and proper assumption of the required maintenance provisions are satisfactorily corrected and accepted by the Engineer. The amount of monies deducted will be a permanent deduction and are not recoverable. Upon satisfactory correction of the deficiencies, payment of the Maintenance of Traffic lump sum item will resume.

SPECIAL PROVISIONS

TC — 7.09 PRICE ADJUSTMENT FOR DIESEL FUEL

CONTRACT NO. DO2035180

1 of 3

**TC SECTION 7
PAYMENT****TC-7.09 PRICE ADJUSTMENT FOR DIESEL FUEL**

(a) General. A Price Adjustment (PA) will be made to provide additional compensation to the Contractor or a credit to the Administration for the fluctuation in the cost of diesel fuel.

The monthly index price used for calculating the PA will be the On-Highway Diesel Fuel Price for the Central Atlantic Region published by the U.S. Department of Energy, Energy Information Administration, at www.eia.doe.gov. The monthly index price will be the average of the weekly prices posted for the month.

The prevailing base index price will be the price specified for Diesel Fuel currently posted at www.roads.maryland.gov (Business Center /Contracts, Bids, and Proposals) prior to bid opening. A historical database will be maintained by the Administration.

The adjustment factors for specific categories of the work are included in Table TC-7.09. Category A, C, D will apply to this Contract.

The PA will be calculated when the index for the current month increases or decreases more than 5 percent of the base index. The total dollar amount of fuel adjustment will be limited to 5 percent of the Contract Total Amount as bid. If an increase or decrease in costs exceeds 5 percent of the Contract Total Amount as bid, no further adjustment will be made.

Computations for adjustment will be as follows:

$$\text{Percent Change} = [(E - B)/B] \times 100$$

$$\text{PA} = [E - (B \times D)] \times F \times Q$$

Where:

PA = Amount of the price adjustment

E = Current monthly index price

B = Prevailing base index price

D = 1.05 when increase is over 5%; 0.95 when decrease is over 5%

F = Applicable fuel adjustment factor from Table TC-7.09

Q = Quantity of individual units of work

SPECIAL PROVISIONS**TC — 7.09 PRICE ADJUSTMENT FOR DIESEL FUEL**

CONTRACT NO. DO2035180

2 of 3

TABLE TC-7.09

COST ADJUSTMENT FACTORS FOR DIESEL FUEL			
CATEGORY	DESCRIPTION	UNITS	FACTOR
A	Sum of Cubic Yards of Excavation in Category 200	Gallons/Cubic Yard	0.29
B	Sum of Structure Concrete in Category 400	Gallons/Cubic Yard	1.892
C	Sum of Aggregate Base in Category 500	Gallons per ton	0.60
D	Sum of Asphalt in Category 500	Gallons per ton	3.50
E	Sum of Rigid Concrete Pavement in Category 500	Gallons/Cubic Yard	0.95

Any difference between the checked final quantity and the sum of quantities shown on the monthly estimates for any item will be adjusted by the following formula:

$$\text{FPA} = [(\text{FCQ} \div \text{PRQ}) - 1] \times \text{EA}$$

Where:

FPA = Final PA for the item that increased or decreased

FCQ = Final Checked Quantity of the item

PRQ = Total Quantity of the item reported on the most recent estimate

EA = Total PA of the item shown on most recent estimate

(b) Price Adjustment Criteria and Conditions. The following criteria and conditions will be considered in determining the PA.

(1) Payment. The PA will be computed on a monthly basis. PA resulting in increased payment to the contractor will be paid under the item Price Adjustment for Diesel Fuel. The item amount will be established by the Administration, and shall not be revised by the Contractor. PA resulting in a decreased payment will be deducted from monies owed the Contractor.

The monthly base price for determining a PA for all work performed after the Contract completion date, as revised by an approved time extensions, will be the monthly base price at the time of the Contract completion date (as extended) or at the time the work was performed, whichever is less.

SPECIAL PROVISIONS

TC — 7.09 PRICE ADJUSTMENT FOR DIESEL FUEL

CONTRACT NO. DO2035180

3 of 3

- (2) **Expiration of Contract Time.** When eligible items of work are performed after the expiration of Contract time with assessable liquidated damages, no PA will be made.
- (3) **Final Quantities.** Upon completion of the work and determination of final pay quantities, an adjusting Change Order will be prepared to reconcile any difference between estimated quantities previously paid and the final quantities.
- (4) **Inspection of Records.** The Administration reserves the right to inspect the records of the Contractor to ascertain actual pricing and cost information for the diesel fuel used in the performance of the applicable items of work.
- (5) **Additional Work.** When applicable items of work, as specified herein, are added to the Contract as additional work, in accordance with the Contract provisions, no PA will be made for the fluctuations in the cost of diesel fuel unless otherwise approved by the Engineer. The Contractor shall use current fuel costs when preparing required backup data for work to be performed at a negotiated price.
- (6) **Force Account.** Additional work performed on a force account basis, reimbursement for material, equipment, and man-hours as well as overhead and profit markups will be considered to include full compensation for the current cost of diesel fuel.

SPECIAL PROVISIONS INSERT
103 — ENGINEERS OFFICE

CONTRACT NO. DO2035180
1 of 1

CATEGORY 100
PRELIMINARY

SECTION 103 — ENGINEERS OFFICE

103.03.06 Engineers Office Equipment and Services.

(2) Computer Software

DELETE: The table in its entirety.

INSERT: The following.

Type	Software Package
Operating System	Microsoft Windows 10 or newer
Productivity Tools	32-bit Microsoft Office Professional 2016 or newer
PDF File Reader	Adobe Acrobat Reader - current version
Note: Include all current software updates and service packs.	

CATEGORY 100
PRELIMINARY

SECTION 103 – ENGINEERS OFFICE

103.03.07 Specific Field Office Requirements.

DELETE: Table 103.03.07B – Office Equipment Quantity Requirements in its entirety.

INSERT: The following.

Table 103.03.07B - Office Equipment Quantity Requirements

ITEM	SECTION	QUANTITY
Type A - Desktop Computer	103.03.06(a)(1)	0
Type B - Laptop Computer	103.03.06(a)(1)	0
High-Capacity Multi-function B&W Laser Copier/Scanner/Printer	103.03.06(c)	0
Low-Capacity Multi-function Color Ink Jet Printer/Scanner/Copier/FAX	103.03.06(d)	0
Paper shredder	103.03.06(e)	0
Digital camera	103.03.06(f)	0
Additional Monitor 24” Widescreen HD LED with integrated webcam and microphone that is compatible with project assigned devices	N/A	0

SPECIAL PROVISIONS

104.01 — TRAFFIC CONTROL PLAN

CONTRACT NO.: DO2035180

1 of 5

**CATEGORY 100
PRELIMINARY**

SECTION 104 — MAINTENANCE OF TRAFFIC

104.01 TRAFFIC CONTROL PLAN (TCP)

104.01.01 DESCRIPTION.

DELETE: The fourth paragraph sentence "Refer to contract Documents for Work Restrictions." in its entirety.

INSERT: The following.

Work Restrictions.

Work is not permitted on the following holidays indicated below with an "X", nor is work permitted on the day immediately preceding and immediately following the holidays indicated below with an "X".

- ☒ New Year's Day, January 1
- ☐ Martin Luther King's Birthday, the third Monday in January
- ☐ President's Day, the third Monday in February
- ☒ Good Friday
- ☒ Easter Weekend
- ☒ Memorial Day, the last Monday in May
- ☒ Independence Day, July 4
- ☒ Labor Day, the first Monday in September
- ☐ Columbus Day, the second Monday in October
- ☐ Veterans Day, November 11
- ☒ Thanksgiving Day, the fourth Thursday in November
- ☒ Christmas Day, December 25

Work is not permitted on the following weekend days indicated below with an "X".

- ☒ Saturdays, unless prior written approval is given by the Engineer
- ☒ Sundays, unless prior written approval is given by the Engineer

07-11-17

TEMPORARY LANE OR SHOULDER CLOSURE SCHEDULE			
ROADWAY	# LANE(S) / SHOULDER CAN BE CLOSED	DAY OF THE WEEK	CLOSURE PERIOD (TIME OF DAY)
MD 331 <u>Two Lane – Two Way</u> Prior to the commencement of any work, please contact the Dist-1 Traffic Office to apply for and obtain a Lane Closure Permit at 410-677-4041	1/1 (with permit)	M-F	8:00am to 5:00 pm
	0/1 (with permit)	M-F	Sunrise to Sunset

ADD: The following after the last paragraph, “Any monetary savings...and the Administration.”

When closing, or opening a lane or shoulder on freeways, expressways, and roadways with posted speed ≥ 55 mph, ensure a work vehicle is closely followed by a protection vehicle (PV) during installation and removal of temporary traffic control devices. The PV shall consist of a work vehicle with approved flashing lights, either a truck-mounted attenuator (TMA) with support structure designed for attaching the system to the work vehicle or a trailer truck-mounted attenuator (TTMA) designed for attaching the system to the work vehicle by a Pintle hook and an arrow panel (arrow mode for multilane roadways and caution mode on two-lane, two-way roadways).

Temporary Traffic Control for shoulder work along freeways, expressways, and **roadways with posted speed > 55 mph shall include the use of a PV. The PV shall be outfitted with a TMA or TTMA as noted above and be positioned on the shoulder to protect the work area throughout the duration of the shoulder work operation.**

The work vehicle size and method of attachment shall be as specified in the TMA/TTMA manufacturer’s specification as tested under NCHRP and/or MASH Test Level 3.

When a temporary lane or shoulder closure is in effect, begin work within one hour after the lane is closed. For any delay, greater than one hour and no work in progress, remove the lane/shoulder closure. Ensure the Traffic Manager attends the Pre-Construction, Pre-Structural Steel Erection, Pre-Concrete Placement, Pre-MOT Shift, and Pre-Paving Meetings and is prepared to competently discuss traffic control, the Traffic Control Plan (TCP), and the procedures to be implemented for lane closures.

All closures shall be in conformance with the approved TCP and at the direction of the Traffic Manager and the Engineer.

SPECIAL PROVISIONS

CONTRACT NO.: DO2035180

104.01 — TRAFFIC CONTROL PLAN

3 of 5

Workers and equipment, including temporary traffic control devices needed for setting up a lane closure or restriction, are prohibited in the lane/shoulder to be closed or restricted before the time permitted in the Contract Documents unless otherwise approved by the Engineer.

Temporary traffic control devices to be used for lane/shoulder closure may be placed on the shoulder of the roadway by workers no earlier than **30** minutes prior to the actual time lane/shoulder closure or restriction is permitted. When temporary traffic control devices are being installed, ensure that all work vehicles involved in the installation display flashing lights that provide a 360-degree visibility of the vehicles. These lights shall remain on until the full installation of TTC devices is complete. Temporary traffic signs may be displayed to traffic at this time.

Workers shall not enter any lane open to traffic. Workers may be present on shoulders to prepare for lane closure setup no earlier than **30** minutes prior to the actual time lane/shoulder closures or restrictions are permitted. During preparation for the lane closure, ensure that all work vehicles at the site and involved in the installation of the lane closure or restriction display flashing lights that provide 360-degree visibility of the vehicles, as required by MD 104.01-18B. These lights shall remain on while the vehicle remains in the work zone and until the full implementation of the road closure or restriction is complete.

Restore all temporary lane or shoulder closures at the end of the closure period and ensure that no travel lane has been reduced to less than 11 ft on expressways, freeways and 10 ft on other roadways. Prior to opening the closed lane or shoulder, clear the lane or shoulder of all material, equipment, and debris.

Failure to restore full traffic capacity within the time specified will result in a deduction assessed in conformance with the following.

This is in addition to the requirements specified in TC-4.02.

The lane closure penalties for freeways are categorized by the District in which they are located.

For Districts 1, 2 and 6, the following fee structure will be followed:

ASSESSED DEDUCTIONS FOR FREEWAYS	
ELAPSED TIME, (MINUTES)	DEDUCTION
<i>For 1 Lane Closures</i>	
1 – 10	\$ 100.00

07-11-17

SPECIAL PROVISIONS**104.01 — TRAFFIC CONTROL PLAN**

CONTRACT NO.: DO2035180

4 of 5

Each minute over 10	\$50.00 per minute (In addition to original 10 minute deduction)
<i>For 2 or more Lane Closures</i>	
1 – 10	\$ 200.00
Each minute over 10	\$100.00 per minute (In addition to original 10 minute deduction)

For Districts 3, 4, 5 and 7, the following fee structure will be followed:

ASSESSED DEDUCTIONS FOR FREEWAYS	
ELAPSED TIME, (MINUTES)	DEDUCTION
<i>For 1 Lane Closures</i>	
1 – 10	\$ 1,000.00
Each minute over 10	\$500.00 per minute (In addition to original 10 minute deduction)
<i>For 2 or more Lane Closures</i>	
1 – 10	\$ 2,000.00
Each minute over 10	\$1,000.00 per minute (In addition to original 10 minute deduction)

The lane closure penalties for other roads are categorized by intersection Level of Service. The penalty for other roads with Level of Service D, E or F is greater than that for Level of Service A, B or C.

07-11-17

For Level of Service A, B or C, the following fee structure will be followed:

ASSESSED DEDUCTIONS FOR OTHER ROADS	
ELAPSED TIME, (MINUTES)	DEDUCTION
<i>For 1 Lane Closures</i>	
1 – 10	\$ 150.00
Over 10	\$75.00 per minute (In addition to the original 10 minute deduction)
<i>For 2 or more Lane Closures</i>	
1 – 10	\$ 300.00
Over 10	\$150.00 per minute (In addition to the original 10 minute deduction)

For Level of Service D, E or F, the following fee structure will be followed:

ASSESSED DEDUCTIONS FOR OTHER ROADS	
ELAPSED TIME, (MINUTES)	DEDUCTION
<i>For 1 Lane Closures</i>	
1 – 10	\$ 300.00
Over 10	\$150.00 per minute (In addition to the original 10 minute deduction)
<i>For 2 or more Lane Closures</i>	
1 – 10	\$ 600.00
Over 10	\$300.00 per minute (In addition to the original 10 minute deduction)

To modify the work restrictions, submit a request to the Engineer in writing with at least 72 hours notice. Do not implement any changes until written approval from the Engineer is received. Include a copy of the original work restrictions with the written request. The Engineer also reserves the right to modify or expand the methods of traffic control or working hours as specified in the Contract Documents.

SPECIAL PROVISIONS INSERT
104 — MAINTENANCE OF TRAFFIC

CONTRACT NO. DO2035180
1 of 1

CATEGORY 100
PRELIMINARY

SECTION 104 — MAINTENANCE OF TRAFFIC

104.23 PROTECTION VEHICLE (PV)

104.23.01 DESCRIPTION

ADD: The following after the sentence "... at Test Level 3" in the fourth paragraph.

The gross vehicle weight rating (GVWR) of the work vehicle shall be a minimum of 14 000 lbs., and any fuel tank or container of hazardous materials shall be at least 10-1/2 ft. from the rear of the work vehicle.

SPECIAL PROVISIONS INSERT
109 — PROJECT SCHEDULE

CONTRACT NO. DO2035180
1 of 1

CATEGORY 100
PRELIMINARY

SECTION 109 — CRITICAL PATH METHOD PROJECT SCHEDULE

CHANGE: The title of Section 109 to “Section 109 – PROJECT SCHEDULE”.

SPECIAL PROVISIONS INSERT
110 — ACTIVITIES CHART PROJECT SCHEDULE

CONTRACT NO. DO2035180
1 of 1

CATEGORY 100
PRELIMINARY

SECTION 110 — ACTIVITIES CHART PROJECT SCHEDULE

DELETE: Section 110 in its entirety.

CATEGORY 200
GRADING

SECTION 203 — BORROW EXCAVATION

203.01.02 Notice to Contractor — Borrow Pits.

ADD: After the first paragraph.

This project is located in Dorchester County. The following conditions applicable to the county or city shall be complied with and documented.

DISTRICT 1

Dorchester (DO) County

- Site plan approved by Soil Conservation District.
- Grading permit from County Highway Department (except City of Cambridge).
- Planning and Zoning approval for use.
- Critical Areas approval (if applicable).
- Inspection by County.

Somerset (SO) County

- Site plan approved by Soil Conservation District.
- Grading Permit from the County.
- Land Use permit.
- Critical Areas approval by Planning and Zoning (if applicable).
- Inspection by SHA.

Wicomico (WI) County

- Site plan approved by Soil Conservation District.
- Certificate of compliance with Planning and Zoning if located in Critical Area.
- Inspection by SHA.

Worcester (WO) County

- Site plan approved by Soil Conservation District.
- Critical areas approved by Planning and Zoning (if applicable).
- Inspection by SHA.

DISTRICT 2

Caroline (CO), Cecil (CE), Queen Anne's (QA) and
Talbot (TA) Counties

- Site plan approved by Soil Conservation District.
- Planning and Zoning approval.
- Critical Areas approval (if applicable).
- Inspection by SHA.

SPECIAL PROVISIONS
203 — BORROW EXCAVATION

CONTRACT NO. DO2035180
2 of 4

Kent (KE) County

Site plan approved by Soil Conservation District.
Grading permit.
Planning and Zoning approval.
Critical Areas approval (if applicable).
Inspection by SHA.

DISTRICT 3

Montgomery (MO) County

Sediment control permit and plan approval by County
Department of Environmental Protection, Division of
Water Resources Management, Storm Water Management Section/Sediment Control.
Approval by Maryland National Capital Park and Planning Commission (if applicable).
Inspection by County.

Prince Georges (PG) County

Site Plan approved by Soil Conservation District.
County Grading Permit.
Tree conservation plan approval by Maryland National Capital Park and Planning
Commission (if applicable).
Critical Areas approval (if applicable).
Payment of all pertinent county fees and/or securing of county required bonding.
Inspection by SHA with oversight by County.

DISTRICT 4

Baltimore (BA) County

Site Plan approved by the Department of Environmental Protection and the Soil
Conservation District.
County Grading Permit.
Critical Areas approval by the Department of Environmental Protection and Resource
Management (if applicable).
Inspection by County.

Harford (HA) County

Site Plan approved by Soil Conservation District.
County Grading Permit.
Critical Areas approval (if applicable).
Inspection by County.

DISTRICT 5

Anne Arundel (AA) County

Site Plan approved by Soil Conservation District.
Planning and zoning approval - special exception required.
Grading plan issued by the County Department of Inspections and Permits.
Critical Areas approval (if applicable).
Inspection by County and SHA.

Calvert (CA) County

Site Plan approved by Soil Conservation District.
Grading plan issued by the County after a mining permit or exemption is issued.
Critical Areas approval (if applicable).
Inspection by SHA.

Charles (CH) County

Site Plan approved by Soil Conservation District.
Special exception granted by the County.
Critical Areas approval (if applicable).
Inspection by SHA.

St. Mary's (SM) County

Site Plan approved by Soil Conservation District.
County Grading Permit.
Critical Areas approval (if applicable).
Inspection by SHA.

DISTRICT 6

Allegany (AL) County

Site plan approved by Soil Conservation District.
Informational copy of plans to County Planning and Zoning Commission.
Inspection by SHA.

Garrett (GA) and Washington (WA) Counties

Site plan approval by Soil Conservation District.
Inspection by SHA.

DISTRICT 7

Carroll (CL) County

Site plan approved by County Planning Commission.
Sediment control plan approval by Soil Conservation District.
County Grading Permit.
Inspection by County.

SPECIAL PROVISIONS
203 — BORROW EXCAVATION

CONTRACT NO. DO2035180
4 of 4

Frederick (FR) County
Site plan approved by Soil Conservation District.
County Grading Permit.
Inspection by SHA.

Howard (HO) County
Site Plan approved by Soil Conservation District.
County Grading Permit.
Inspection by County.

BALTIMORE CITY (BC)

Site plan approved Baltimore City Department of Public Works (BCDPW).
Inspection by BCDPW.

STATE AND FEDERAL PROPERTY

Borrow pits located on state and federal property are subject to Maryland Department
of the Environment approval.
Inspection by SHA.

SPECIAL PROVISIONS
308 — EROSION AND SEDIMENT CONTROL

CONTRACT NO. DO2035180
1 of 1

CATEGORY 300
DRAINAGE

SECTION 308 — EROSION AND
SEDIMENT CONTROL

308.04 MEASUREMENT AND PAYMENT.

308.04.06 Incentive Payments and Liquidated Damages.

CHANGE: The paragraph to the following.

The total incentive awarded for this Contract will not exceed \$0.00. The quarterly incentive payment for this contract is \$0.00. A final incentive payment for this contract is \$0.00 less the total quarterly incentives paid during a contract extension.

For each day that the project has a 'D' rating, liquidated damages will be imposed in the amount of \$2,536.00 per day. Failure to upgrade the project to the minimum of a 'B' rating within 72 hours will result in the project being rated 'F'.

For each day that the project has an 'F' rating, liquidated damages will be imposed in the amount of \$3,356.00 per day.

CATEGORY 400
STRUCTURES

SECTION 405 — REMOVAL OF EXISTING
STRUCTURE

DELETE: 405.01 DESCRIPTION in its entirety.

INSERT: The following.

405.01 DESCRIPTION. Remove and dispose of, wholly or in part, designated structures. This work includes the removal and salvage of all existing steel traffic plates at the structure.

405.03 CONSTRUCTION.

ADD: The following after 405.03.03.

405.03.04 Removal and Salvage of Existing Steel Traffic Plates. Carefully remove all existing steel traffic plates from the structure, which shall become the property of the Administration.

Grind all welds connecting the steel traffic plates and load the salvaged materials at the site specified herein or as directed by the Engineer. Notify the Administration a minimum of 48 hours prior to removal of the salvaged materials. Arrange for provisions to store the material off the ground inside the projects specified LOD until all of the steel traffic plates are ready for transport.

Once contractor is ready to load all of the steel traffic plates into Administrations trucks, Contact Joseph Pupa at 410 – 545 – 8383. Carefully load the steel traffic plates on Administration's trucks with the steel traffic plates securely tied down and separated by blocking to prevent scratching and marring of the material. Provide all labor at the project/storage site as no Administration personnel will be available.

405.04 MEASUREMENT AND PAYMENT.

ADD: The following after 405.04.03.

405.04.04 Salvaged Material. Salvaging existing steel traffic plates will not be measured but will be paid for at the pertinent Contract lump sum price for the "Salvaging Existing Steel Traffic Plates" item. The cost shall include protecting the material from damage, removing, storing, stacking, loading, and all incidentals necessary to complete the item. Materials damaged due to the Contractor's negligence shall be replaced at no additional cost to the Administration or the value reimbursed to the Administration.

SPECIAL PROVISIONS

CONTRACT NO. DO2035180

405 — REMOVAL OF EXISTING STRUCTURE

2 of 2

Removal of existing steel traffic plates will not be measured but will be paid for at the pertinent Contract lump sum price for the pertinent Removal of Existing Steel Traffic Plates item.

SPECIAL PROVISIONS

420 — PORTLAND CEMENT CONCRETE STRUCTURES

CONTRACT NO. DO2035180

1 of 1

**CATEGORY 400
STRUCTURES**

**SECTION 420 — PORTLAND CEMENT
CONCRETE STRUCTURES**

420.02 MATERIALS.

ADD: The following at the end of materials list.

Concrete Chloride Content	902.10.11
Chloride Ion Content	902.11.01

CATEGORY 400
STRUCTURES

SECTION 499 — WORKING DRAWINGS

499.03 CONSTRUCTION.

DELETE: 499.03.02 Consultant Engineering Firm in its entirety.

INSERT: The following.

499.03.02 Consultant Engineering Firm. The consultant engineering firm to review working drawings on this project is:

Brudis and Associates, Inc.
9240 Rumsey Road, Suite C
Columbia, Maryland 21045

SPECIAL PROVISIONS
MAINTAIN EXISTING ROADWAY LIGHTING

CONTRACT NO. DO2035180
1 of 1

CATEGORY 800
TRAFFIC

MAINTAIN EXISTING ROADWAY LIGHTING

DESCRIPTION. Maintain existing roadway and sign lighting during construction.

MATERIALS. Not applicable.

CONSTRUCTION. Maintain all roadway and sign lighting at all times except as indicated in the Contract Documents, or as directed by the Engineer. Contact the Traffic Control device Inspection Section prior to beginning any work to inventory the working condition of the existing lights.

The roadway shall continue to be illuminated at the levels existing on the first day of construction throughout the project, unless approved otherwise, in writing, by the Engineer. Upon notification of inadequate illumination by the Engineer, provide lighting up to the minimum levels as specified in the Contract Documents, within 48 hours. Failure to correct the noted problems will result in a \$500 per day penalty.

The electrical circuits, either existing or new, which are to be affected by construction activities, shall have replacement circuits in operation before the existing circuits are disconnected. If unable to install the ultimate circuits and maintain them in working order, temporary bypasses shall be provided. All temporary wiring shall conform to NEC, and the policies of the Administration. No overhead wiring shall be connected to breakaway poles unless the poles are protected from traffic and from construction activities.

Install a temporary lighting system with written approval by the Engineer. The temporary lighting system may include relocation of existing lighting poles or installation of final lighting poles.

At the conclusion of construction, all temporary cables shall be disconnected and made safe. Temporary underground cables may be abandoned, but shall be disconnected from the power supply system, and isolated so that there is no possibility of their becoming re-energized.

MEASUREMENT AND PAYMENT. Maintain Existing Roadway Lighting will be not be measured but the cost will be paid for at the contract lump sum price. Payment of the contract lump sum price will be prorated and paid in equal amounts on each monthly estimate. The number of months used for prorating will be the number estimated to complete the work. Payment will be full compensation for all manholes, duct cable, cable, conduit, connector kits, wood poles, luminaires, lighting arms, labor and incidentals needed to complete the work.

SPECIAL PROVISIONS
AS-BUILT LIGHTING INVENTORY

CONTRACT NO. DO2035180
1 of 3

CATEGORY 800
TRAFFIC

AS-BUILT LIGHTING INVENTORY

DESCRIPTION. Provide as-built lighting inventory information to the Administration for use in the Asset Data Warehouse. Data provided shall be in the appropriate format as described below.

MATERIALS. Mapping Grade Global Positioning System (GPS) receiver and software capable of providing the output as described herein.

A data dictionary including input fields will be provided by the Administration to be used with the GPS receiver. GPS receiver shall be compatible with Terra Sync and Pathfinder Office software currently being used by the Administration.

CONSTRUCTION. Collect as-built lighting inventory data for all new and relocated light poles, manholes/handholes, lighting panels and structures (sign structures with lighting) including the data fields described below. Existing equipment which is to remain at a new or reconstructed interchange shall be captured as part of the inventory.

Collect as-built lighting inventory data for all modified light poles and structures (sign structures with lighting) including the data fields described below.

Provide data in hard copy and digital spreadsheet formats. The following fields shall be included and used as Column Headings. The order in which they are shown below shall be matched from left to right in the spreadsheet provided by the contractor.

Light Poles:

EASTING (X) COORDINATE LOCATION DATA
NORTHING (Y) COORDINATE LOCATION DATA
NUMBER OF LIGHTS (Per Pole)
POLE HEIGHT
ARM LENGTH
WATTAGE
COMMENTS
ON/OFF
LIGHT_POLES_ID
BASE TYPE
BULB TYPE
EXIT NUM
INTERCHANGE/INTERSECTION NAME
DATE COLLECTED

SPECIAL PROVISIONS
AS-BUILT LIGHTING INVENTORY

CONTRACT NO. DO2035180
2 of 3

Lighting Panels:

EASTING (X) COORDINATE LOCATION DATA
NORTHING (Y) COORDINATE LOCATION DATA
AMPERAGE
COMMENTS
METER NUM UNMETERED
LIGHT_PANELS_ID
DATE COLLECTED
COMMENTS

Structures (Sign structures with lighting):

EASTING (X) COORDINATE LOCATION DATA
NORTHING (Y) COORDINATE LOCATION DATA
NUMBER OF LIGHTS
LUMITRACK
LIGHTING_STRUCTURES_ID
STRUCTURE TYPE
LED
DATE COLLECTED
COMMENTS

Manholes/Handholes:

EASTING (X) COORDINATE LOCATION DATA
NORTHING (Y) COORDINATE LOCATION DATA
DATE COLLECTED
COMMENTS

GPS location information shall conform to the following requirements:

- (a) Mapping grade GPS receivers shall be used which have sub-meter accuracy.
- (b) The data provided must be able to be post-processed as necessary after data gathering has taken place using Terra Sync and Pathfinder office software suites
 - (1) Projection - NAD_1983_HARN_StatePlane_Maryland_FIPS_1900_Feet
 - (2) Geographic Coordinate System - GCS_North_American_1983_HARN
 - (3) Datum - D_North_American_1983_HARN_Feet
- (c) Units of distance shall be published in US Survey Feet.
- (d) All horizontal location information shall be Easting (X) and Northing (Y).

As-Built lighting inventory data shall be submitted to the Assistant District Engineer for

SPECIAL PROVISIONS
AS-BUILT LIGHTING INVENTORY

CONTRACT NO. DO2035180
3 of 3

Maintenance at the following locations:

District 1: P.O. Box 2679, 660 West road, Salisbury MD 21802 410-677-4010

MEASUREMENT AND PAYMENT. As-Built Lighting Inventory Data will not be measured but the cost will be incidental to other pertinent items in the Contract Documents and will include GPS receivers, software and for all material, labor, equipment, tools and incidentals necessary to complete the work.

As-Built Lighting Inventory data shall be collected for all new and relocated light poles, manholes/handholes, lighting panels and structures (sign structures with lighting). Lighting systems will not be taken over for maintenance by the Administration until As-Built Lighting Inventory Data is received and accepted as correct by the Administration.

SECTION 875 — UTILITY STATEMENT

DESCRIPTION. The Contractor's attention is called to the requirements of Sections GP-5.05, GP-7.13 and GP-7.17.

MATERIALS. Not Applicable.

CONSTRUCTION.

- (a) Attention of the Contractor is directed to the possible presence of water, sewer, gas mains, electrical wires, conduit, communications cables (both overhead and underground), poles and house service connections in the street or highway in which the construction project is to be performed. The Contractor shall exercise special care and extreme caution to protect and avoid damage to utility company facilities as described in the preceding sentence. The Contractor shall take into consideration the adjustments and installations by public utilities in areas within the limits of this Contract. Existing utilities have been generally located and shown on the Plans as they are believed to exist; however, the Administration assumes no responsibility for the accuracy of these locations.

Prior to ordering any storm drain or water/sewer main materials, the Contractor shall locate and test pit any underground facilities that appear to be in conflict, in order to determine if conflicts exist. In the event that conflicts may be possible, this information shall immediately be forwarded to the State's representative for review and resolution. Material ordered prior to obtaining test pit information will not be considered in any request from the Contractor for any equitable adjustments due to existing utility conflicts.

- (b) **MISS UTILITY:** The Contractor shall locate all existing utilities and be responsible for their safety. Should any existing utilities be damaged or destroyed, due to the operations of the Contractor, the damaged or destroyed components shall be immediately replaced or repaired as necessary to restore the utility to a satisfactory operating condition. These repairs or replacements shall be at no additional expense to the Administration or the owner of the utility.

The Contractor must notify the public service companies of work intentions 48 hours before work is to begin, by calling MISS UTILITY at 1-800-257-7777 or by applying for utility locates online at: <http://www.missutility.net/>.

SPECIAL PROVISIONS

875—UTILITY STATEMENT

CONTRACT NO. DO2035180

2 of 5

Regarding stake out of State Highway Administration owned facilities, please make note of our new notification procedures. SHA is now part of MISS UTILITY, and we also charge fees for our locates. "The contractor must provide the contract number when contacting Miss Utility for locates. This provision is required whether the contractor contacts Miss Utility via the internet or by phone.

Do not perform any excavation work without first receiving notification from Miss Utility that all public service companies and the Administration have responded to the request for locate. As a precaution, the following Administration Offices should also be notified of work intentions around:

TRAFFIC DEVICES: Chief, Signal Operations Team – 410-787-7650

CHART / ITS DEVICES: Chief, Communication Division – 410-747-8590

ATR STATIONS: Data Services Engineering Division – 410-545-5509 Contact - Barry Balzanna

The District 1 Utility Contact numbers are: Mr. Milan Shah - District Utility Engineer, 410-677-4095 or Mr. John Dodson - Assistant Utility Engineer, 410-677-4082.

- (c) The existing utilities requiring relocation or adjustment shall be relocated or adjusted by the agency responsible for their maintenance or by the owner of the utility, unless otherwise indicated in the Contract Documents. The Contractor shall inform the respective utility companies at least five days prior to working in any area. In addition, the Contractor shall give sufficient notice to the specific utilities of the Contractor's overall plan for construction. The utility companies will establish the lead-time necessary to meet the applicable utility work schedule and coordinate with the Contractor's work operations, based upon the Contractor's overall plan.

Any submittal by the Contractor to vary the sequence of work and/or perform concurrent work in multiple phases, differing from the recommended maintenance of traffic phasing, must be accompanied by an updated schedule or CPM reflecting all utility relocation's and adjustments. The Contractor shall be responsible, upon gaining approval, for coordinating utility relocations and adjustments with the affected utility owners, SHA project engineer, and the District Utility Engineer. All requirements and lead times, as stated in the Utility Statement and Special Provisions, will remain in effect unless written approval for the utility company and the District Utility Engineer is received by the Contractor prior to the commencing any requested work.

- (d) **Note: It is not anticipated that facilities are to be relocated as part of this contract.**
- (e) **Contact number for Mr. Milan Shah, District Utility Engineer is 410-677-4095 or Mr. John Dodson, Assistant Utility Engineer is 410-677-4082.**

The following known utility companies have facilities within the limits of this project and any/all adjustments required are listed below:

- 1) **DELMARVA POWER**: The engineer for Delmarva Power is Mr. Edwin Cade (410) 860-6265. Delmarva Power owns and maintains existing aerial facilities within the limits of this project. There are no plans to adjust any of Delmarva Power's facilities as preliminary engineering indicates that there are no conflicts.
- 2) **VERIZON**: The engineer for Verizon is Mrs. Penny Gamble (410) 768-1357. Verizon owns and maintains existing aerial within the limits of this project. There are no plans to adjust any of Verizon's facilities as preliminary engineering indicates that there are no conflicts.
- 3) **COMCAST**: The engineer for Comcast is Mr. Des Kilgoe (302) 233-2140. Comcast owns and maintains existing underground facilities within the limit of this project. Comcast will relocate approximately 100 feet of underground fiber optic cable and coaxial cable inside the project limits from approximate station: 10+50, 25' Right to approximate station: 12+00, 25' Right to accommodate proposed construction. It is anticipated that the relocation of the above-mentioned facilities will be completed by the contractor's notice to proceed date.

NOTE: THE CONTRACTOR SHALL MAKE ALL ADJUSTMENTS TO SURFACE UTILITY FRAME AND COVERS, WATER VALVES, AND WATER METERS. THE COST OF THESE ADJUSTMENTS SHALL BE INCIDENTAL TO THE ASPHALT PAVING ITEM IN CONFORMANCE WITH SECTION 504.04 OF THE SPECIFICATIONS OR THE VARIOUS SIDEWALK, DRIVEWAY AND CURB/GUTTER WORK UNLESS THE ADJUSTMENT IS TWELVE INCHES OR MORE, IN THESE CASES THE ADJUSTMENT(S) MAY BE PAID FOR UNDER PERTINENT LINE ITEM(S). ALL ADJUSTMENTS SHALL BE DONE ACCORDING TO THE PERTINENT UTILITY OWNERS SPECIFICATIONS. THE CONTRACTOR SHALL CONTACT THE PERTINENT UTILITY OWNERS PRIOR TO ADJUSTMENT OF ANY FACILITY. CONTRACTOR WILL REQUEST UTILITY TO ACCEPT IN WRITING ALL ADJUSTMENTS UPON COMPLETION OF WORK AND ARRANGE A FIELD MEETING BETWEEN THE UTILITY, THE CONTRACTOR AND THE SHA PROJECT STAFF.

SPECIAL PROVISIONS
875—UTILITY STATEMENT

CONTRACT NO. DO2035180
4 of 5

- (e) All notifications to the above utility companies and "MISS UTILITY", 1-800-257-7777, shall be given 48 hours (two full working days) in advance of working in the area of the specific affected utility. The notification to "MISS UTILITY" is required whenever any excavating or similar work is to be performed.
- (f) When it is necessary to use steel plates at any point during construction, the following minimum requirements shall be met:
 - 1) Steel plates are to be no less than 1-inch thick.
 - 2) Steel plates are to cover access pit(s) with a 1-foot overlap onto existing pavement on all four sides of access pit(s).
 - 3) When only three sides overlap existing roadway, the fourth side shall be supported by a 12" X 12" I beam or timber.
In cases where plates are used to cover extremely large excavations, it will be necessary to install an immediate support system to prevent deflection.
 - 4) Steel plates must be pinned to prevent movement.
 - 5) Steel plates must be ramped with cold patch or asphalt pavement at the end of each work shift.
 - 6) It will be necessary to recess any steel plates that are placed in the roadway during the winter months.
 - 7) In cases where two or more are placed together, they shall be welded together by placing at least three welds, 12 inches (centered on each plate) in length on each abutting plate. One weld is placed no more than one foot from each edge and one is placed in the center of the plates.
- (g) If adjustments are required to facilities, it will be necessary that the existing facilities remain in service until the new construction is complete and placed in service. The Contractor will prepare a plan to keep the facilities in service and submit copies to the State's Project Engineer and the utility owner for review and approval at least 10 business days prior to the start of work. Also, when adjustments are required, establishment of lead times are necessary to meet the applicable utility schedule and coordination with the Contractor's work operation.

MEASUREMENT AND PAYMENT. Working around or protecting existing aerial and underground utilities, regardless of ownership (State or public); removal of temporary materials from the adjusted utilities prior to placement of the proposed asphalt pavement, installation of temporary utility service connections, cooperation with the owners of the utilities and with other Contractors, will not be measured for payment and the cost will be incidental to the items specified in the Contract Documents.

CONTRACT PROVISION BUY AMERICA
UTILITIES

This section applies to projects partially or totally funded with Federal Funds. The prime contractor or its subcontractors shall comply with Section 165 of the Surface Transportation Assistance Act of 1982 as amended by Section 1041(a) and 1048(a) of the Intermodal Surface

SPECIAL PROVISIONS

CONTRACT NO. DO2035180

875—UTILITY STATEMENT

5 of 5

Transportation Efficiency Act of 1991 with regard to the furnishing and coating of iron and steel products.

The prime contractor or its subcontractors shall supply certifications to the Project Engineer from the manufacturer of all coating, iron or steel products which document that the steel and iron have been manufactured and the coatings for iron or steel have been applied by the manufacturer in the United States. The Project Engineer shall forward copies of the certifications to the Office of Materials Technology for review and approval prior to such items being incorporated into the permanent work. Certifications shall extend to materials utilized in manufactured and fabricated products purchased by the Contractor.

Products manufactured of foreign steel or iron materials may be used, provided the cost of such products as, delivered to the project, does not exceed 0.1% of the total contract amount, or \$2500, whichever is greater. If a supplier or fabricator wishes to use a partial fabrication process where domestic and foreign source components are assembled at a domestic location, the "as delivered cost" of the foreign components should include any transportation, assembly and testing costs required to install them in the final product.

This applies to all iron, steel and coating materials used for utility work incorporated into the project, including materials/items supplied by the Utility Company.

SPECIAL PROVISIONS INSERT
918 — TRAFFIC BARRIERS

CONTRACT NO. DO2035180
1 of 1

CATEGORY 900
MATERIALS

SECTION 918 — TRAFFIC BARRIERS

918.01 TRAFFIC BARRIER W BEAM/THRIE-BEAM

ADD: The following after the last sentence.

Producers of Traffic Barrier shall participate in the National Transportation Product Evaluation Program (NTPEP) audit program.

SPECIAL PROVISION INSERT
921 — MISCELLANEOUS

CONTRACT NO. DO2035180
1 of 2

CATEGORY 900
MATERIALS

SECTION 921 — MISCELLANEOUS

DELETE: 921.06 TIMBER PRESERVATIVES in its entirety.

INSERT: The following.

921.06 TIMBER PRESERVATIVES. All preserved wood used for highway construction and maintenance applications shall be treated per M 133, and the American Wood Protection Association (AWPA) and ICC-ES standards for preservative, retention, and penetration with United States Environmental Protection Agency (EPA) pesticide registrations. Timber preservatives shall meet the following:

- (a) Water borne preservatives shall be used where a clean surface is desired, or when the wood is to be painted. Moisture content of wood shall not be greater than 19 percent at the time of treatment.
- (b) All treated wood shall be free of excess preservative on the surface. Creosote-treated wood shall be double vacuum treated per EPA requirements for use in aquatic and marine environments.
- (c) Wood used for sign posts, fence posts, wood posts, guardrail posts, bridge decking, gates, stair treads, and offset blocks shall be treated per M 133 and AWPA standards with EPA pesticide registrations.
- (d) Wood used for piles, timbers, and composites shall be treated per M 133 and AWPA standards with EPA pesticide registrations.
- (e) Wood used for hand-contact surfaces such as handrails, playground equipment and picnic tables shall be treated per M 133 and AWPA standards with EPA pesticide registrations for residential applications. Fasteners for preservative treated wood shall be hot-dipped galvanized steel conforming to A153 or A653, Class G185. Type 304 or 316 stainless steel fasteners are also permitted.
- (f) Pressure treatment shall conform to the requirements of the AWPA "Use Category" as follows:

SPECIAL PROVISION INSERT
921 — MISCELLANEOUS

CONTRACT NO. DO2035180
2 of 2

Wood	End Use Category	AWPA Standard
Bridge structures including decking, guard rail posts and offset blocks	UC4B - Ground Contact Heavy Duty	U1: Commodity Specification A (sawn solid products)
Foundation piles	UC4C - Ground Contact Extreme Duty	U1; Commodity Specification E (round timber piles)
Wood Composites	UC4A - Ground Contact, General Use	U1; Commodity Specification F (wood composites)
Sign posts, fence posts and gates	UC4A - Ground Contact, General Use	U1: Commodity Specifications A (sawn solid products) and B (round posts)
Piling, bracing and bulk heading	UC4B - Ground Contact Heavy Duty	U1; Commodity Specifications A (sawn solid products), B (round products) and E (round timber piles)
Piling, bracing, bulkheads and fender systems	UC5B Marine (Salt water) Immersion	U1: Commodity Specifications G (sawn products, round timber piles and plywood)

TEST PIT DATA

CLIENT: MARYLAND STATE HIGHWAY ADMINISTRATION	CLIENT JOB NO.: DO203A21	KCI JOB NO.: 0514544917-51
PROJECT NAME: MD 331	PROJ. LOCATION: MD 331	
UTILITY REQUESTED: COMCAST CATV	FORM BY: B. STREHLIEN	TEST HOLE NO.: 1
OUTSIDE DIAMETER & TYPE OF UTILITY FOUND:	PAVING TYPE: N/A	DATE DUG: 11-06-17
Approx: 1/4" PLASTIC CATV CABLE	SOIL COMPOSITION: ROCK, SAND, CLAY	
	PHYSICAL APPEARANCE OF UTILITY: BLACK	

<p>ELEV. SURVEY MARKER (NAVD 88)</p> <p>10.72'</p> <p>EXISTING GRADE</p> <p>COVER (TOP)</p> <p>2.30'</p> <p>8.42'</p> <p>ELEV. (TOP)</p> <p>COVER (BOTTOM)</p> <p>ELEV. (BOTTOM)</p> <p>WIDTH (UTILITY)</p> <p>1/4"</p> <p>INSTALLED: HUB AT EXISTING GRADE OF: GROUND LEVEL</p> <p>N/A</p>	<p>TEST PIT SURVEY INFORMATION:</p> <p>NORTHING: 303081.682</p> <p>EASTING: 1648048.126</p> <p>BASELINE:</p> <p>STATION:</p> <p>OFFSET:</p> <p>QUALITY CONTROL CHECKS:</p> <p><input checked="" type="checkbox"/> FIELD CHECK B.S. (INITIALS) DATE: 11-6-17</p> <p><input checked="" type="checkbox"/> OFFICE CHECK A.G. (INITIALS) DATE: 11-13-17</p> <p><input checked="" type="checkbox"/> FINAL CHECK J.J. (INITIALS) DATE: 11-13-17</p>
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<p>NOTES: ALL MEASUREMENTS TAKEN FROM HUB SET 12" NORTH OF TEST HOLE, PLACED OVER CENTERLINE OF UTILITY.</p>	<p>SWING TIE MEASUREMENTS:</p> <table border="1"> <tr> <td>1 C & P POLE #928</td> <td>13.59'</td> </tr> <tr> <td>2 EDGE OF ROAD</td> <td>3.07'</td> </tr> <tr> <td>3 COMCAST HANDBOX</td> <td>44.61'</td> </tr> </table>	1 C & P POLE #928	13.59'	2 EDGE OF ROAD	3.07'	3 COMCAST HANDBOX	44.61'
1 C & P POLE #928	13.59'						
2 EDGE OF ROAD	3.07'						
3 COMCAST HANDBOX	44.61'						

SKETCH
NOT TO SCALE

ALL MEASUREMENTS ON THIS FORM ARE IN FEET

MD STATE GRID NAD 83/91

DMW
DAFT MADONE WALKER INC.

501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

KCI
TECHNOLOGIES

936 RIDGEBROOK ROAD
SPARKS, MARYLAND 21152
TELEPHONE: (410) 316-7800
FAX: (410) 316-7818

STATE OF MARYLAND
MICHAEL DAVID MCGIN
NO. 41234
12-14-17

CLIENT: MARYLAND STATE HIGHWAY ADMINISTRATION	CLIENT JOB NO.: DO203A21	KCI JOB NO.: 0514544917-51
PROJECT NAME: MD 331	PROJ. LOCATION: MD 331	
UTILITY REQUESTED: COMCAST CATV	FORM BY: B. STREHLIEN	TEST HOLE NO.: 2
OUTSIDE DIAMETER & TYPE OF UTILITY FOUND:	PAVING TYPE: N/A	DATE DUG: 11-06-17
Approx: 1/4" PLASTIC CATV CABLE	SOIL COMPOSITION: ROCK, SAND, CLAY	
	PHYSICAL APPEARANCE OF UTILITY: BLACK	

<p>ELEV. SURVEY MARKER (NAVD 88)</p> <p>10.98'</p> <p>EXISTING GRADE</p> <p>COVER (TOP)</p> <p>1.36'</p> <p>9.62'</p> <p>ELEV. (TOP)</p> <p>COVER (BOTTOM)</p> <p>ELEV. (BOTTOM)</p> <p>WIDTH (UTILITY)</p> <p>1/4"</p> <p>INSTALLED: HUB AT EXISTING GRADE OF: GROUND LEVEL</p> <p>N/A</p>	<p>TEST PIT SURVEY INFORMATION:</p> <p>NORTHING: 303112.794</p> <p>EASTING: 1648042.817</p> <p>BASELINE:</p> <p>STATION:</p> <p>OFFSET:</p> <p>QUALITY CONTROL CHECKS:</p> <p><input checked="" type="checkbox"/> FIELD CHECK B.S. (INITIALS) DATE: 11-6-17</p> <p><input checked="" type="checkbox"/> OFFICE CHECK A.G. (INITIALS) DATE: 11-13-17</p> <p><input checked="" type="checkbox"/> FINAL CHECK J.J. (INITIALS) DATE: 11-13-17</p>
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<p>NOTES: ALL MEASUREMENTS TAKEN FROM HUB SET 12" SOUTH OF TEST HOLE, PLACED OVER CENTERLINE OF UTILITY.</p>	<p>SWING TIE MEASUREMENTS:</p> <table border="1"> <tr> <td>1 C & P POLE #928</td> <td>36.84'</td> </tr> <tr> <td>2 EDGE OF ROAD</td> <td>2.81'</td> </tr> <tr> <td>3 COMCAST HANDBOX</td> <td>13.08'</td> </tr> </table>	1 C & P POLE #928	36.84'	2 EDGE OF ROAD	2.81'	3 COMCAST HANDBOX	13.08'
1 C & P POLE #928	36.84'						
2 EDGE OF ROAD	2.81'						
3 COMCAST HANDBOX	13.08'						

SKETCH
NOT TO SCALE

ALL MEASUREMENTS ON THIS FORM ARE IN FEET

MD STATE GRID NAD 83/91

501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286
P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM

KCI TECHNOLOGIES
ENGINEERS
PLANNERS
SCIENTISTS
CONSTRUCTION MANAGERS

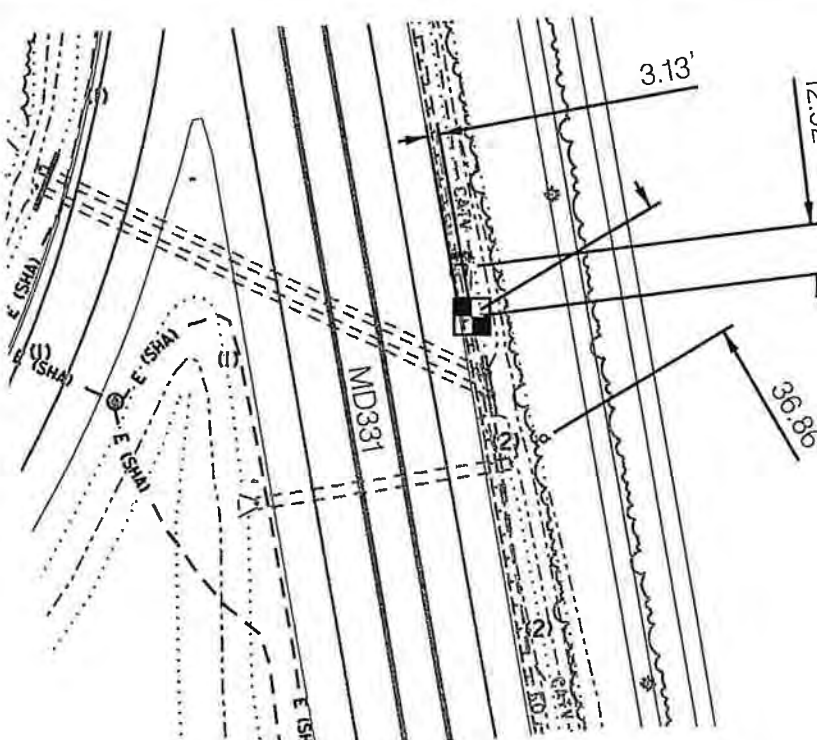

936 RIDGEBROOK ROAD
SPARKS, MARYLAND 21152
TELEPHONE: (410) 316-7800
FAX: (410) 316-7818

[Signature] 12.14.17

CLIENT: MARYLAND STATE HIGHWAY ADMINISTRATION	CLIENT JOB NO.: DO203A21	KCI JOB NO.: 0514544917-51
PROJECT NAME: MD 331	PROJ. LOCATION: MD 331	
UTILITY REQUESTED: COMCAST FIBER OPTIC	FORM BY: B. STREHLIEN	TEST HOLE NO.: 2A
OUTSIDE DIAMETER & TYPE OF UTILITY FOUND:	PAVING TYPE: N/A	DATE DUG: 11-06-17
Approx:	SOIL COMPOSITION: ROCK, SAND, CLAY	
(2) 2" PLASTIC FIBER OPTIC CONDUITS	PHYSICAL APPEARANCE OF UTILITY: ORANGE	

<p>ELEV. SURVEY MARKER (NAVD 88)</p> <p>10.92'</p> <p>EXISTING GRADE</p> <p>COVER (TOP)</p> <p>4.20'</p> <p>6.72'</p> <p>ELEV. (TOP)</p> <p>COVER (BOTTOM)</p> <p>ELEV. (BOTTOM)</p> <p>WIDTH (UTILITY)</p> <p>4"</p> <p>INSTALLED: HUB AT EXISTING GRADE OF: GROUND LEVEL</p> <p>N/A</p>	<p>TEST PIT SURVEY INFORMATION:</p> <p>NORTHING: 303112.983</p> <p>EASTING: 1648043.107</p> <p>BASELINE:</p> <p>STATION:</p> <p>OFFSET:</p> <p>QUALITY CONTROL CHECKS:</p> <p><input checked="" type="checkbox"/> FIELD CHECK B.S. (INITIALS) DATE: 11-6-17</p> <p><input checked="" type="checkbox"/> OFFICE CHECK A.G. (INITIALS) DATE: 11-13-17</p> <p><input checked="" type="checkbox"/> FINAL CHECK J.J. (INITIALS) DATE: 11-13-17</p>
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<p>NOTES: ALL MEASUREMENTS TAKEN FROM HUB SET 12" SOUTH OF TEST HOLE, PLACED OVER CENTERLINE OF UTILITY.</p>	<p>SWING TIE MEASUREMENTS:</p> <table border="1"> <tr> <td>1 C & P POLE #928</td> <td>36.86'</td> </tr> <tr> <td>2 EDGE OF ROAD</td> <td>3.13'</td> </tr> <tr> <td>3 COMCAST HANDBOX</td> <td>12.92'</td> </tr> </table>	1 C & P POLE #928	36.86'	2 EDGE OF ROAD	3.13'	3 COMCAST HANDBOX	12.92'
1 C & P POLE #928	36.86'						
2 EDGE OF ROAD	3.13'						
3 COMCAST HANDBOX	12.92'						

 <p>SKETCH</p> <p>NOT TO SCALE</p> <p>ALL MEASUREMENTS ON THIS FORM ARE IN ENGLISH UNITS</p>	<p>MD STATE GRID NAD 83/91</p>  <p>501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286 P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM</p> <p>KCI TECHNOLOGIES</p> <p>ENGINEERS PLANNERS SCIENTISTS CONSTRUCTION MANAGERS</p> <p>936 RIDGEBROOK ROAD SPARKS, MARYLAND 21152 TELEPHONE: (410) 316-7800 FAX: (410) 316-7818</p> <p><i>W. M. Smith</i></p> <p>12.14.17</p>
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CLIENT: MARYLAND STATE HIGHWAY ADMINISTRATION	CLIENT JOB NO.: DO203A21	KCI JOB NO.: 0514544917-51
PROJECT NAME: MD 331	PROJ. LOCATION: MD 331 ON RAMP TO US 50 EAST	
UTILITY REQUESTED: SHA ELECTRIC	FORM BY: N. ELLERBE	TEST HOLE NO.: 3
OUTSIDE DIAMETER & TYPE OF UTILITY FOUND:	PAVING TYPE: N/A	DATE DUG: 11-06-17
Approx: (2) 1" PLASTIC ELECTRIC CONDUITS	SOIL COMPOSITION: ROCK, SAND, CLAY	
	PHYSICAL APPEARANCE OF UTILITY: BLACK	

<p>ELEV. SURVEY MARKER (NAVD 88)</p> <p>10.90'</p> <p>EXISTING GRADE</p> <p>COVER (TOP)</p> <p>1.06'</p> <p>9.84'</p> <p>ELEV. (TOP)</p> <p>COVER (BOTTOM)</p> <p>ELEV. (BOTTOM)</p> <p>WIDTH (UTILITY)</p> <p>2"</p> <p>INSTALLED HUB AT EXISTING GRADE OF: GROUND LEVEL</p> <p>N/A</p>	<p>TEST PIT SURVEY INFORMATION:</p> <p>NORTHING: 303130.123</p> <p>EASTING: 1647929.336</p> <p>BASELINE:</p> <p>STATION:</p> <p>OFFSET:</p> <p>QUALITY CONTROL CHECKS:</p> <p><input checked="" type="checkbox"/> FIELD CHECK K.B. (INITIALS) DATE: 11-6-17</p> <p><input checked="" type="checkbox"/> OFFICE CHECK A.G. (INITIALS) DATE: 11-13-17</p> <p><input checked="" type="checkbox"/> FINAL CHECK J.J. (INITIALS) DATE: 11-13-17</p>
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<p>NOTES: ALL MEASUREMENTS TAKEN FROM HUB SET 12" S.W. OF TEST HOLE, PLACED OVER CENTERLINE OF UTILITY.</p>	<p>SWING TIE MEASUREMENTS:</p> <p>1 EDGE OF CURB 2.49'</p> <p>2 STORM DRAIN PIPE 17.25'</p> <p>3 SHA MANHOLE 26.41'</p>
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<p>SKETCH NOT TO SCALE</p> <p>ALL MEASUREMENTS ON THIS FORM ARE IN FEET</p>	<p>MD STATE GRID NAD 83/91</p> <p>DMW DAFT MCCUHE WALKER INC.</p> <p>501 FAIRMOUNT AVENUE SUITE 300 TOWSON, MD 21286 P: 410 296 3333 F: 410 296 4705 WWW.DMW.COM</p> <p>KCI TECHNOLOGIES</p> <p>ENGINEERS PLANNERS SCIENTISTS CONSTRUCTION MANAGERS</p> <p>936 RIDGEBROOK ROAD SPARKS, MARYLAND 21152 TELEPHONE: (410) 316-7800 FAX: (410) 316-7818</p> <p><i>Signature</i> 12.14.17</p>
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CLIENT: MARYLAND STATE HIGHWAY ADMINISTRATION
PROJECT NAME: MD 331
UTILITY REQUESTED: SHA ELECTRIC
OUTSIDE DIAMETER & TYPE OF UTILITY FOUND:
Approx:
(2) 1" PLASTIC ELECTRIC CONDUITS

CLIENT JOB NO.: DO203A21	KCI JOB NO.: 0514544917-51
PROJ. LOCATION: MD 331 ON RAMP TO US 50 EAST	
FORM BY: N. ELLERBE	TEST HOLE NO.: 4
PAVING TYPE: N/A	DATE DUG: 11-06-17
SOIL COMPOSITION: ROCK, SAND, CLAY	
PHYSICAL APPEARANCE OF UTILITY: BLACK	

<p>ELEV. SURVEY MARKER (NAVD 88)</p> <p>10.97</p> <p>EXISTING GRADE</p> <p>COVER (TOP)</p> <p>1.34'</p> <p>9.63</p> <p>ELEV. (TOP)</p> <p>COVER (BOTTOM)</p> <p>ELEV. (BOTTOM)</p> <p>WIDTH (UTILITY)</p> <p>2"</p> <p>INSTALLED: HUB AT EXISTING GRADE OF: GROUND LEVEL</p> <p>N/A</p>	<p>TEST PIT SURVEY INFORMATION:</p> <p>NORTHING: 303158.491</p> <p>EASTING: 1647939.280</p> <p>BASELINE:</p> <p>STATION:</p> <p>OFFSET:</p> <p>QUALITY CONTROL CHECKS:</p> <p><input checked="" type="checkbox"/> FIELD CHECK K.B. (INITIALS) DATE: 11-6-17</p> <p><input checked="" type="checkbox"/> OFFICE CHECK A.G. (INITIALS) DATE: 11-13-17</p> <p><input checked="" type="checkbox"/> FINAL CHECK J.J. (INITIALS) DATE: 11-13-17</p>
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<p>NOTES: ALL MEASUREMENTS TAKEN FROM HUB SET 12" S.W. OF TEST HOLE, PLACED OVER CENTERLINE OF UTILITY.</p>	<p>SWING TIE MEASUREMENTS:</p> <table border="1"> <tr> <td>1 EDGE OF CURB</td> <td>1.15'</td> </tr> <tr> <td>2 STORM DRAIN PIPE</td> <td>11.89'</td> </tr> <tr> <td>3 STREET LIGHT POLE</td> <td>51.61'</td> </tr> </table>	1 EDGE OF CURB	1.15'	2 STORM DRAIN PIPE	11.89'	3 STREET LIGHT POLE	51.61'
1 EDGE OF CURB	1.15'						
2 STORM DRAIN PIPE	11.89'						
3 STREET LIGHT POLE	51.61'						

SKETCH
NOT TO SCALE

ALL MEASUREMENTS ON THIS FORM ARE IN FEET AND INCHES

MD STATE GRID NAD 83/91

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2/11/17
12-14-17

Pavement Boring Logs

Pavement Core Log				
CONTRACT: DO2035180			DATE:	09/15/2017
LOCATION: MD 331 and Ramp C			MILE POINTS: 0.04	
Core	Dir	Lane	Depth	Description
C1	NB MD 331	1 3ft from white	0 – 20”	BITUMINOUS CONCRETE (GOOD)
			20” –	SAND
C2	SB MD 331	1 3ft from white	0 – 15”	BITUMINOUS CONCRETE (GOOD)
			15” –	SMALL STONE
C3	SB MD 331	SH 3ft from white	0 – 11”	0" - 11” BITUMINOUS CONCRETE (GOOD)
			11” –	SAND
C4	EB Ramp C	SH 4ft from white	0 – 9.5”	BITUMINOUS CONCRETE (GOOD)
			9.5” –	SAND
C5	EB Ramp C	1 110ft from pavement change at gore	0 – 10”	BITUMINOUS CONCRETE (GOOD)
			10” –	SAND