


TO:		ENGINEERING INSTRUCTION	
SUPERSEDED BY EB 99-019		NEW YORK STATE DEPARTMENT OF TRANSPORTATION	
EFFECTIVE 7/26/99		SUBJECT: COMBINED ROAD PLAN	
		subject Code: 7.26	
Distribution:		Code: <u>EI 88-42</u>	
30	Main Office	32	Regions
		Special	
APPROVED:		Date: <u>12/9/88</u>	
		Supersedes:	
M. J. CUDDY, ASST. COMM. & CHIEF ENGR., OFC. OF ENGR.			

The Federal Highway Administration recently approved the Department's proposed Combined Road Plan (CRP) Agreement. Attached is a copy for your information and files.

The Combined Road Plan is a demonstration project which was authorized by the Federal-Aid Highway Act of 1987 and is intended to test approaches for combining, streamlining, and increasing the flexibility in the administration of the Federal-Aid secondary and urban programs and non-primary bridge programs. The CRP was established for a time period through September 30, 1991.

CRP can be thought of as an extension of Certification Acceptance in four areas. The CRP Agreement contains provisions for:

- delegation of the responsibility for approval of design exceptions;
- delegation to the Department of final inspections;
- pooling of Secondary, Urban and non-Primary bridge funds;
- delegation to the Department of authority to commit funds for individual CRP projects based on FHWA approval of an annual program of projects for CRP.

The following projects are excluded from the CRP Agreement:

- bridge projects costing \$10 million or more;
- projects which are not designed under the supervision of NYSDOT;
- projects which involve right-of-way which is not acquired by NYSDOT;
- projects which are not let to contract by NYSDOT and
- projects which affect the Primary or Interstate Systems.

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Design approval, approval of geometric design exceptions and PS&E approval will be given by the Regional Director or his designee for CRP projects which do not exceed the thresholds found on Page 10 of the CRP Agreement. In addition to copies circulated in the Regional offices, copies should also be sent to Main Office Units in accordance with the listing below. For projects that exceed these thresholds, CRP projects will continue to be processed in accordance with Certification Acceptance procedures except that the Chief Engineer --rather than FHWA-- will grant approvals for geometric design exceptions.

Regardless of the estimated cost of the project, the PS&E transmittal letter (Item 21) should include the following statement; "All design exceptions have been considered and approved by _____".

You will note that there is no reference to the NYS Manual on Uniform Traffic Devices --the Federal Manual has been cited in the list of references. While recognizing that minor differences in the two Manuals exist, it is intended that the NYS Manual will be the primary basis for design except that on Federal aid projects where there is a conflict with the Federal Manual, the Federal Manual will prevail. This was discussed with the Director of Traffic and Safety who concurs.

Performance of final inspections will be the responsibility of the Regional Director or the Regional Construction Engineer. Acceptance of final inspections will be by the Director of the Construction Division or the Assistant Deputy Chief Engineer for Construction. This will be documented by completing Form DOT 1446 (copy attached). The Regional Director or the Regional Construction Engineer will complete and sign the inspection (top) part of Form DOT 1446. The Director of the Construction Division or the Assistant Deputy Chief Engineer for Construction will complete and sign the acceptance (bottom) part of the form. The form should be included with the final agreement package.

This change in no way affects the existing process whereby project initiation requests and scope change requests are reviewed by the Executive Capital Program Committee.

Main Office Distribution List

Capital Projects Coordination Bureau (all projects)
Final Plan Review Bureau (all projects)
Program Planning Bureau (all projects)
Preliminary Plan Review Bureau (all projects except bridge rehabs)
Landscape Architecture Bureau (all projects except bridge rehabs)
Structures Division (all projects involving bridges)
Real Estate Division (all projects involving acquisition of ROW)
Technical Services Division (all projects involving hazardous waste)
Soil Mechanics Bureau (all projects involving unique soils issues)
Commercial Transport Division (all projects involving crossings with a railroad)

FINAL INSPECTION OF FEDERAL-AID PROJECT
CONSTRUCTED UNDER COMBINED ROAD PLAN AGREEMENT

1. FED AID PROJ NO.

2. CONTRACT NO.

3. COUNTY

4. STATE

5. DESCRIPTION OF IMPROVEMENT AS PROGRAMMED

6. CONTRACTOR'S NAME

7. CONTRACT AMOUNT

8. NYSDOT INSPECTION MADE BY

9. DATE OF INSPECTION

10. IN COMPANY WITH

11. NOTICE OF FINAL INSPECTION. THE ABOVE LISTED PROJECT HAS BEEN
COMPLETED IN REASONABLE CLOSE CONFORMITY WITH THE APPROVED
PLANS AND SPECIFICATIONS INCLUDING AUTHORIZED CHANGES AND EXTRA WORK.

SIGNATURE _____

TITLE _____

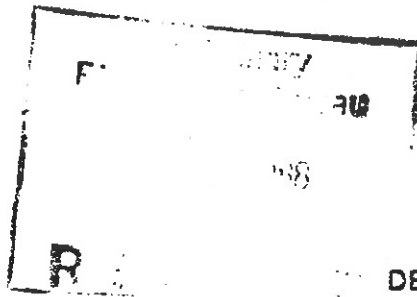
12. REMARKS

13. FINAL INSPECTION ACCEPTED

SIGNATURE _____

TITLE _____

DATE _____



MEMORANDUM
DEPARTMENT OF TRANSPORTATION

TO: M. J. Cuddy, Office of Engineering, 5-504
D. J. Egan, Prog. Planning & Mgmt. Group, 5-514B

FROM: P. W. Taylor, Executive Deputy Commissioner, 5-506

SUBJECT: COMBINED ROAD PLAN IMPLEMENTATION

DATE: November 30, 1988

PWT,

The Combined Road Plan agreement between the Department and FHWA has been approved. A copy of the signed agreement is attached. The Plan will take effect on December 1, 1988.

Please take steps to assure that your staffs are informed about the Plan and are prepared to implement it.

PWT:GHP:D
Attachment

cc: H. L. Peyrebrune, Off. of Public Transp., 5-502
J. C. Smith, Off. of Adm. & Fin., 5-514A
B. W. Cobb, Acct. & Fisc. Svcs. Bur., 5-522
D. W. Randles, Construction Div., 4-101
J. R. Lambert, Facilities Design Div., 5-405
R. K. Radliff, Prelim. Plan Rev. Bur., 5-408 ←
W. J. McLoughlin, Capital Projs. Coord. Bur., 5-519
J. M. Newman, Program Planning Bur., 5-515
A. Kupferman, Policy Development Group, 5-309
T. C. Werner, Regional Director, Region 1
P. A. Barnes, Regional Director, Region 2
R. Simberg, Regional Director, Region 3
L. Gurley, Regional Director, Region 4
R. J. Russell, Regional Director, Region 5
D. T. Heineman, Regional Director, Region 6
J. F. Carrigan, Regional Director, Region 7
A. E. Dickson, Regional Director, Region 8
J. K. Connors, Regional Director, Region 9
J. Kuzloski, Regional Director, Region 10
M. Francese, Regional Director, Region 11



U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
REGION ONE

New York Division
Leo W. O'Brien Federal Building 9th Fl.
Albany, New York 12207

IN REPLY REFER TO

November 22, 1988

HPR-NY

Mr. Paul W. Taylor,
Executive Deputy Commissioner
New York State Department of Transportation
Main Office
State Campus
1220 Washington Avenue
Albany, New York 12232

Dear Mr. Taylor,

I am pleased to inform you that your Combined Road Program (CRP) Agreement has been approved. A copy of the signed agreement is enclosed.

We have discussed with Mr. Gil Priess of your staff an appropriate date that this Plan should take effect and have agreed upon December 1, 1988. This will provide time for our respective staffs to prepare for the specific operational changes required in both your Department and FHWA.

We would like to remind you that an evaluation plan needs to be developed. This plan will serve as a basis for determining the benefits of the Combined Road Plan. In this plan we would like you to define whom within your Department will have responsibility for completing the evaluation. This plan should be developed shortly so that the data necessary for the evaluation will be collected throughout the CRP demonstration period. For example, we believe that your Department should establish a tracking system for the design exceptions approved under the CRP.

Please extend my appreciation to your Department personnel involved in developing this Agreement. I know it has been a lengthy process, but the results should provide benefits to both our offices.

Sincerely yours,

Harold J. Brown
Division Administrator

Enclosure

cc: HTP-01
HPN-11

COMBINED ROAD PLAN AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION
AND THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION

INTRODUCTION

In accordance with Section 137 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, P. L. 100-17, this agreement between the New York State Department of Transportation (NYSDOT) and the Federal Highway Administration (FHWA) sets forth the conditions for conducting a COMBINED ROAD PLAN (CRP) demonstration to test the feasibility of approaches for combining, streamlining, and increasing the flexibility in the administration of Federal-aid Secondary, Urban, and non-Primary Bridge funds.

Execution of this agreement shall constitute compliance with Section 110 of Title 23 for project agreements.

PROJECTS COVERED BY THE AGREEMENT

The Federal-aid systems and classes of projects to which this agreement applies shall be as follows:

- All highway projects eligible to be funded with Federal-aid Secondary (FAS) funds.

- All highway projects eligible to be funded with Federal-aid Urban System (FAUS) funds.
- All Federal-aid Highway Bridge Replacement and Rehabilitation Program (Bridge) projects on the Federal-aid Secondary System, on the Federal-aid Urban System (FAUS) and on off-system routes.

The following projects are excluded from this agreement:

- bridge projects costing \$10 million or more
- projects which are not designed under the supervision of NYSDOT
- projects which involve right-of-way which is not acquired by NYSDOT
- projects which are not let to contract by NYSDOT
- projects which affect the Primary or Interstate Systems.

It is agreed that upon approval of this agreement, the remaining design exceptions and final inspection actions on active projects which would be eligible for administration under this agreement shall be handled in accordance with the described procedures.

FUNDING

NYSDOT shall promptly notify FHWA of the amount of funds to be allotted to the CRP by each category of funds. Upon such notification, FHWA shall pool the Federal-aid Secondary, Federal-aid Urban, and non-Primary Bridge funds which are allocated for projects covered by the agreement into a

single fund and will establish a separate account to record CRP funding activity. NYSDOT shall promptly inform the Division Administrator when it commits funds under its existing procedures. This notification shall obligate Federal funds allotted to the pool and establish the date costs may be billed through the NYSDOT billing system in accordance with the current billing memorandum of understanding. NYSDOT will provide FHWA with project information required by FHWA to carry out its responsibilities. Funds under the CRP demonstration program shall be subject to all applicable obligational limitation controls.

In administering the CRP pooled fund, the State shall comply with those limitations and requirements prescribed by Title 23, U.S.C. relating, but not limited to such items as (1) allocation of Urban System funds (Section 150), (2) 10 percent limitation requirement for projects funded under Section 120(d), (3) limitation on training funds (Section 321), (4) not less than 15 percentum nor more than 35 percentum of the amount apportioned to the State for the Bridge program shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal-aid system (Section 144), (5) local official role in project selection (Section 105(b) and (d)), and (6) urban planning (Section 134).

MATCHING RATE FOR CRP

State matching of Federal-aid funds shall be consistent with any applicable requirements of Title 23, U.S.C. (either 75 percent for Secondary

and Urban projects and 80 percent for Bridge projects will be used, or NYSDOT may evoke the optional match available under 23 U.S.C. 120(n)).

DELEGATIONS

The NYSDOT shall administer the CRP demonstration in accordance with its existing operating procedures.

All environmental, non-discrimination, labor, and uniform relocation assistance requirements delegated to FHWA shall continue to be the responsibility of FHWA.

The FHWA delegates by virtue of this agreement authority and NYSDOT agrees to assume responsibility for all project activities including PS&E approval, design approval, design exception approvals, and construction activities including final inspections necessary to advance the projects to completed and closed status. NYSDOT may use the CRP funds interchangeably for projects on the Secondary and Urban systems, as well as for off-system bridges. Reimbursement claims for a CRP project shall be submitted to FHWA under the single CRP fund. The annual program of projects required by 23 U.S.C. 105 shall be submitted to FHWA for approval and authorization to proceed with all projects in the program. At the same time, NYSDOT shall advise FHWA of the amount of funds to be included in the CRP pool.

NYSDOT shall request prior approval of the Division Administrator to advance projects under Section 115 of Title 23, Advance Construction, and

Section 122 of Title 23, Bond Issue, and shall advise him when such projects have been converted to Federal-aid financing.

STATE COMMITMENT

Obligation of Funds

Notice to FHWA that NYSDOT is committing funds under this agreement will be provided by the Director, Program Planning and Management Group. The content of this notice will be agreed upon by FHWA and NYSDOT, and shall contain the amount of funds to be obligated and other information required by FHWA to carry out its responsibilities.

The points in the project development process when NYSDOT will obligate funds for CRP projects will be:

- For Preliminary Engineering and Right-of-Way Incidentals, after a project is placed on the capital program and NYSDOT is ready to undertake design activities.
- For Right-of-Way Acquisition; after Design Approval, Right-of-Way Plan preparation and Relocation Plan approval by FHWA.
- For Construction, prior to award of the contract.

Granting of Design Approval and Approval of Design Exceptions

Design approval, approval of geometric design exceptions and PS&E approval will be given by the Assistant Commissioner for Engineering and Chief Engineer when:

1. the goal of the project is to increase capacity at an estimated cost exceeding \$1 million.
2. the goal of the project is to make safety or pavement improvements exceeding the following thresholds:

<u>Region</u>	<u>Cost/Lane Mile</u>
Regions 1 thru 7 and 9	\$300,000
Region 8	500,000
Region 10	600,000
Region 11	700,000

3. the project is a bridge project with an estimated cost exceeding \$1.25 million.

Design approval, approval of geometric design exceptions and PS&E approval will be given by the Regional Director for projects that do not exceed these thresholds.

The controlling geometric criteria are identified as:

Design Speed

Grades

Lane Width	Stopping Sight Distance
Shoulder Width	Roadway Cross Slopes
Bridge Width	Superelevation
Bridge Structural Capacity	Horizontal Clearance
Horizontal Alignment	Vertical Clearance
Vertical Alignment	

Final Inspections

NYSDOT will perform final construction project inspections on all State-let projects (either State or locally owned) which are constructed under this Plan. NYSDOT will complete Federal form FHWA 1446c or a similar form. Performance of final inspections will be the responsibility of the Regional Director or Regional Construction Engineer. Acceptance of the inspections will be by the Director of the Construction Division or by the Assistant Deputy Chief Engineer for Construction. Upon the completion of this form a copy will be submitted to FHWA.

REFERENCES

The following are made part of this agreement:

1. A table of organization of the New York State Department of Transportation (NYSDOT).
2. NYSDOT Environmental Action Plan.

3. Federal Manual on Uniform Traffic Control Devices for Streets and Highways.
4. NYSDOT Highway Design Manual, Volumes I & II.
5. NYSDOT Highway Design Procedure Manual (to the extent approved by FHWA).
6. NYSDOT Policy on Geometrics of Structures.
7. NYSDOT Standard Details for Highway Bridges.
8. NYSDOT Geometric Design Policy for Bridges (to the extent approved by FHWA).
9. American Railway Engineering Association Manual of Railroad Engineering, Chapters 8 and 15.
10. NYSDOT Specifications for Highway Bridges.
11. New York State Policy and Standards for Entrances to State Highways.
12. NYSDOT Manual of Uniform Record Keeping.
13. NYSDOT Steel Construction Manual.

14. NYSDOT Manual of Administrative Procedures.
15. Federal Standards, Policies, Standard Specifications, Guides and References contained in USDOT FHWA Final Rule, Design Standards for Highways-Technical Amendments as contained in Federal Highway Program Manual (FHPM) 6-2-1-1.
16. NYSDOT Engineering Instruction (EI) 80-42 - Information Needed to Support Retention of Design Features that Do Not Meet AASHTO Minimum Standards.
17. Certification Acceptance agreement between the FHWA and the NYSDOT dated February 15, 1979.

Revisions to the above documents will be routinely furnished to FHWA. Changes to these documents which affect this agreement shall have FHWA approval.

ATTACHMENTS

Attachment A constitutes a provision of this agreement.

LOCAL PARTICIPATION

NYS DOT agrees to consult and coordinate as necessary with affected local governments in determining how the CRP program will be administered and how the funds will be allocated and spent.

GENERAL

NYSDOT shall retain project records to support all activities including the estimated cost of construction and the actual cost of construction. Such records shall be available for review and retained for a period of 3 years after payment of the final voucher.

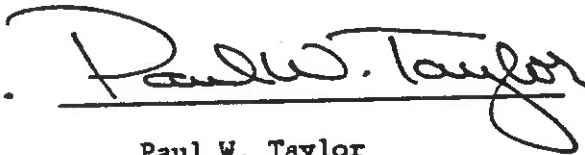
REVISION OR TERMINATION

This agreement will remain in effect for the period of the demonstration under Section 137 and may be periodically reviewed and revised subject to mutual agreement of the two parties hereto.

This agreement is entered into and effective December 1, _____, 1988.

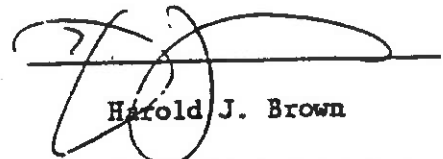
FOR NYSDOT

FOR FHWA



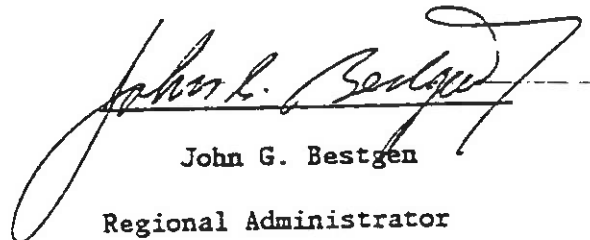
Paul W. Taylor

Executive Deputy Commissioner



Harold J. Brown

Division Administrator



John G. Bestgen

Regional Administrator

AGREEMENT PROVISIONS

~~1. RESPONSIBILITY FOR WORK~~

~~a. Except for projects constructed under Certification Acceptance procedures, the State highway agency will perform the work, or cause it to be performed, in compliance with the approved plans and specifications or project proposal which, by reference, is made a part hereof.~~

~~b. With regard to projects performed under Certification Acceptance procedures, the State highway agency will perform the work, or cause it to be performed, in accordance with the terms of its approved Certification, or exceptions thereto as may have been approved by the Federal Highway Administration.~~

~~2. HIGHWAY PLANNING AND RESEARCH (HPR) PROJECT~~

~~The State highway agency will (a) conduct or cause to be conducted, under its direct control, engineering and economic investigations of projects for future construction, together with highway research necessary in connection therewith, pursuant to the work program approved by the Federal Highway Administration and (b) prepare reports suitable for publication of the result of such investigations and research, but no report will be published without the prior approval of the Federal Highway Administration.~~

~~3. PROJECT FOR ADVANCE ACQUISITION OF RIGHTS-OF-WAY. In the event that actual construction of a road on this right-of-way is not undertaken by the close of the tenth fiscal year following the fiscal year in which this agreement is executed, the State highway agency will repay to the Federal Highway Administration the sum or sums of Federal funds paid to the highway agency under the terms of this agreement.~~

~~4. PRELIMINARY ENGINEERING PROJECT FOR PREPARATION OF RIGHT-OF-WAY PLANS OR FOR PREPARATION OF CONSTRUCTION PLANS, SPECIFICATIONS AND ESTIMATES. In the event that right-of-way acquisition for, or actual construction of the road for which this preliminary engineering is undertaken is not started by the close of the fifth fiscal year following the fiscal year in which this agreement is executed, the State highway agency will repay to the Federal Highway Administration the sum or sums of Federal funds paid to the highway agency under the terms of this agreement.~~

~~5. INTERSTATE SYSTEM PROJECT. (a) The State highway agency will not add or permit to be added, without the prior approval of the Federal Highway Administration any points of access to, or exit from, the project in addition to those approved in the plans and specifications for the project. (b) The State highway agency will not permit automotive service stations, or other commercial establishments for serving motor vehicle users, to be constructed or located on the right-of-way of the interstate system. (c) The State highway agency will not after June 30, 1968, permit the construction of any portion of the Interstate Route on which this project is located, including spurs and loops, as a toll road without the written concurrence of the Secretary of Transportation or his officially designated representative. The term "toll road" does not include toll bridges or toll tunnels.~~

~~6. PROJECT FOR CONSTRUCTION IN ADVANCE OF APPORTIONMENT. (a) This project authorized pursuant to 23 U.S.C. 115 as amended, will be subject to all procedures and requirements, and conform to the standards applicable to projects on the system on which located, financed with the aid of Federal funds. (b) No obligation of previously apportioned~~

Federal funds is created by this agreement, its purpose and intent being to provide that, upon application by the State highway agency, and approval thereof by the Federal Highway Administration, any Federal-aid funds of the class designated by the project number prefix, apportioned to the State under 23 U.S.C. 104 subsequent to the date of this agreement, may be used to reimburse the State for the Federal share of the cost of work done on the project.

~~7. STAGE CONSTRUCTION. The State highway agency agrees that all stages of construction necessary to provide the initially planned complete facility, within the limits of this project, will conform to at least the minimum values set by approved AASHTO design standards applicable to this class of highways, even though such additional work is financed without Federal-aid participation.~~

~~8. BOND ISSUE PROJECT. Construction, inspection and maintenance of the project will be accomplished in the same manner as for regular Federal-aid projects. No present or immediate obligation is created by this Agreement against Federal funds, its purpose and intent being to provide aid to the State, as authorized by 23 U.S.C. 122, for retiring maturities of the principal indebtedness of the bonds referred to below. When the State requests Federal reimbursement to aid in the retirement of such bonds, the request will be supported by the appropriate certification required by 23 CFR Part 140, Subpart F, and Volume 1, Chapter 4, Section 8 of the Federal-Aid Highway Program Manual or the alternative State procedure set forth in the State's Certificate, and payment of the authorized Federal share will be made from appropriate funds available. If in any year there is no unobligated balance of any apportioned Federal funds available from which payments hereunder may be made, there will be no obligation on the part of the Federal Government on account of bond maturities for that year. Funds available to the highway agency for this project are the proceeds of bonds issued by the governmental unit indicated on the attached tabulation pursuant to the authority and in the amounts by date of issue and beginning date of maturities set forth therein.~~

~~9. SPECIAL HIGHWAY PLANNING AND RESEARCH PROJECT. The State Highway agency hereby authorizes the Federal Highway Administration to charge the State's pro rata share of costs incurred against funds apportioned to the State under 23 U.S.C. 307 (c), as amended. In the event a project financed with both Federal-aid funds and State matching funds, the State agrees to reimburse to the Federal Highway Administration the State matching funds for its share of the estimated cost. For a National Pooled Fund study, the State hereby assigns its responsibility for the work to the Federal Highway Administration. For an Intra-Regional Cooperative Study, the State hereby assigns its responsibility for the work to the lead State for the study.~~

~~10. PARKING REGULATION AND TRAFFIC CONTROL. The State highway agency will not permit any changes to be made in the provisions for parking regulations and traffic control as contained in the agreement between the State and the local unit of Government referred to in the paragraph "Additional Provisions," without the prior approval of the Federal Highway Administration, unless the State determines and the Division Administrator concurs, that the local unit of Government has a functioning traffic engineering unit with demonstrated ability to apply and maintain sound traffic operations and control.~~

AGREEMENT PROVISIONS

11. **SIGNING AND MARKING.** The State highway agency will not install, or permit to be installed, any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administrator pursuant to 23 U.S.C. 109(d) or the State's Certificate as applicable.

12. **MAINTENANCE.** The State highway agency will maintain, or by formal agreement with appropriate officials of a county or municipal government cause to be maintained, the project covered by this agreement.

~~13. **LIQUIDATED DAMAGES.** The State highway agency agrees that on Federal-aid highway construction projects not under Certification of Acceptance the provisions of 23 CFR Part 630, Subpart C and Volume 4, Chapter 3, Section 1 of the Federal-Aid Highway Program Manual as supplemented, relative to the basis of Federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.~~

14. **IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (APPLICABLE TO CONTRACTS AND SUBCONTRACTS WHICH EXCEED \$100,000).**

a. The State highway agency stipulates that any facility to be utilized in performance under or to benefit from this agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

b. The State highway agency agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

c. The State highway agency stipulates that as a condition of Federal aid pursuant to this agreement it shall notify the Federal Highway Administration of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this agreement is under consideration to be listed on the EPA List of Violating Facilities.

d. The State highway department agrees that it will include or cause to be included in any Federal-aid to highways agreement with a political subdivision of the State which exceeds \$100,000 the criteria and requirements in these subparagraphs a through d.

NONDISCRIMINATION PROVISION

15. The State highway agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance or guarantee, the following equal opportunity clause:

"During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway agency setting forth the provisions of this nondiscrimination clause.

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

c. The contractor will send to each labor union representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway agency advising the said labor union or workers' representative of the contractor's commitments under this section 11-2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of this Section 11-2 in every subcontract or purchase order unless exempt by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway agency or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance; *Provided, however*, that in the event a contractor becomes involved in litigation threatened with litigation with a subcontractor or vendor as a result of such direction by the Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The State highway agency further agrees that it will be bound by the above equal opportunity clause with respect to its

NONDISCRIMINATION PROVISION

employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The State highway agency also agrees:

(1) To assist and cooperate actively with the Federal Highway Administration and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the Federal Highway Administration and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Federal Highway Administration in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not

demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Federal Highway Administration or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

In addition, the State highway agency agrees that if it fails or refuses to comply with these undertakings, the Federal Highway Administration may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the State highway agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the State highway agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

ADDITIONAL PROVISIONS

(DIVISION ADMINISTRATOR MAY INSERT LOCAL PROVISIONS AS HE DEEMS NECESSARY.)