

## RFQ 382783 - Northstar Boulevard Phase II

### Addendum 2, Attachment 1 - Revised Section 105.19 - Submission and Disposition of Claims to the Loudoun County Revisions to the 2020 VDOT Road & Bridge Specifications Division I General Provisions

#### **Revised 105.19 - Submission and Disposition of Claims**

No claim shall be made under this Contract until and unless the Contractor has failed to obtain a Change Order or has received a Deductive Change Order. The Contractor shall give the County written Notice of Intent To File a Claim within ten (10) calendar days of each and every occurrence that the Contractor feels gives it the right to make a claim or prior to the beginning of the work upon which the claim is to be based, or the rejection of his proposed Change Order, whichever is earlier. This written Notice shall clearly inform the County that it is a "Notice of Intent to File a Claim" and describe the act of omission or commission by the County or its agents that allegedly caused damage to the Contractor and the nature of the claimed damage. Failure to submit such Notice of Intent shall be a conclusive waiver to such claim for damages by the Contractor. **An oral notice or statement will not be sufficient.**

In addition, at the time of each and every occurrence that the Contractor feels gives it the right to make a claim or prior to beginning the work upon which a claim and any subsequent action will be based, the Contractor shall furnish the Engineer an itemized list of materials, equipment, and labor for which additional compensation will be claimed. Only actual cost for materials, labor and equipment will be considered. The Contractor shall afford the Engineer every facility for keeping an actual cost record of the work. Failure on the part of the Contractor to afford the Engineer proper facilities for keeping a record of actual costs will constitute a waiver of a claim for such extra compensation except to the extent that it is substantiated by the County's records. The filing of such Notice of Intent by the Contractor and the keeping of cost records by the Engineer shall in no way establish the validity of a claim.

No claim shall be allowed and no amounts paid for any and all costs incurred if the "Notice of Intent to File a Claim" is not given to the County as herein provided.

The complete written claim, with all supporting documentation, shall be submitted to the Purchasing Agent no later than sixty (60) days after final payment or receipt of the Notice of Termination, whichever is earlier ("60-Day Claim Submission Period"). No additional documentation or arguments in support of a claim will be considered if not submitted within the 60-Day Claim Submission Period. If the claim is not disposed of by agreement, the Purchasing Agent shall reduce its decision to writing and mail or otherwise forward a copy thereof to the Contractor within sixty (60) days of the expiration of the 60-Day Claim Submission Period.

The Purchasing Agent's decision shall be final unless the Contractor appeals within thirty (30) days of receipt of the Purchasing Agent's decision by submitting a written letter of appeal to the County Administrator. The County Administrator shall render a decision within sixty (60) days of receipt of the appeal.

A failure by the Purchasing Agent or the County Administrator to render a decision within the time periods set forth above shall be deemed a denial of the claim and shall not result in the Contractor being awarded the relief claimed. The sole remedy for the County's failure to render a decision as set forth above shall be the Contractor's right to institute legal action. No litigation shall be instituted prior to the exhaustion of the claim submission and review process set forth in 105.19. The Contractor may not introduce factual matters in such litigation that were not part of Contractor's submitted claim under 105.19 claims process. Each party shall bear its own costs and expenses resulting from any litigation, including attorney's fees.