1

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS,

PROPOSAL, SPECIAL PROVISIONS,

CONTRACT AND CONTRACT BOND

FOR

GRADING, STRUCTURES (6X6 CIP OR PRECAST, 2-10X6 CIP, 3-10X4 PRECAST, 7X6 CIP OR PRECAST, 242'-6" PRESTRESSED GIRDER, 64' PRESTRESSED GIRDER, 10X10 CIP OR PRECAST, 3-12X5 CIP), PCC SURFACING, ASPHALT CONCRETE SURFACING

FEDERAL PROJECT NO. IM-CR-EM 0901(187)44
(PCN 034J, 0A9K)

INTERSTATE HIGHWAY 90

IN MEADE COUNTY

NOTICE TO ALL BIDDERS

TO REPORT BID RIGGING ACTIVITIES, CALL: 1-800-424-9071

THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) OPERATES THE ABOVE TOLL-FREE “HOTLINE” MONDAY THROUGH FRIDAY, 8:00 A.M. TO 5:00 P.M., EASTERN TIME. ANYONE WITH KNOWLEDGE OF POSSIBLE BID RIGGING, BIDDER COLLUSION, OR OTHER FRAUDULENT ACTIVITIES SHOULD USE THE “HOTLINE” TO REPORT SUCH ACTIVITIES.

THE “HOTLINE” IS PART OF THE DOT’S CONTINUING EFFORT TO IDENTIFY AND INVESTIGATE HIGHWAY CONSTRUCTION CONTRACT FRAUD AND ABUSE AND IS OPERATED UNDER THE DIRECTION OF THE DOT INSPECTOR GENERAL.

ALL INFORMATION WILL BE TREATED CONFIDENTIALLY, AND CALLER ANONYMITY WILL BE RESPECTED.

* * * *

PLANS, PROPOSALS AND ADDENDA

AFTER AWARD OF CONTRACT, THE LOW BIDDER WILL RECEIVE TEN (10) COMPLIMENTARY SETS OF PLANS, PROPOSALS, PROJECT Q & A FORUM, AND ADDENDA FOR FIELD AND OFFICE USE. AN ELECTRONIC COPY WILL ALSO BE PROVIDED. ANY ADDITIONAL COPIES REQUIRED WILL BE THE RESPONSIBILITY OF THE CONTRACTOR.

* * * *

Project Number: IM-CR-EM 0901(187)44

Revised 10/8/25
PCN 034J, 0A9K

NOTICE TO CONTRACTORS

Bid proposals for this project will be prepared, transmitted, and received electronically by the South Dakota Department of Transportation (SDDOT) via the South Dakota Electronic Bid System until 10 A.M. Central time, on May 13, 2026, at which time the SDDOT will open bids. All bids will be checked for qualifications with results posted on the SDDOT website. The South Dakota Transportation Commission will consider all bids at a scheduled Commission meeting.

The work for which proposals are hereby requested is to be completed within the following requirement(s):

FIELD WORK COMPLETION: **DECEMBER 1, 2028**

The project category is Category III
The project type is Grading
The geographic zone is Zone 4

THE DBE GOAL FOR THIS PROJECT IS: **N/A**

WORK TYPE FOR THIS PROJECT IS: **WORK TYPE 1 OR WORK TYPE 3 OR WORK TYPE 7**

Bidding package for the work may be obtained at:
http://apps.sd.gov/hc65bidletting/ebslettings1.aspx#no-back-button

Standard Specifications for Roads and Bridges, 10-1-25 Version, Required Provisions, and Special Provisions as included in the Proposal. The Standard Specifications for Roads and Bridges may be obtained at https://dot.sd.gov/doing-business/contractors/standard-specifications/ .

The electronic bid proposal must be submitted by a valid bidder as designated by their company's https://apps.sd.gov/HC65C2C/EBS/BidAdminAuthorizationForm.pdf. A bidding administrator will have privileges in the SDEBS to prepare bids, submit bids, and authorize additional company employees to prepare and submit bids. Additionally, a bidding administrator will be responsible for maintaining the list of authorized bidders for the company and will have the ability to add employees, remove employees, and set-up bidder identifications and passwords within the SDEBS. Bidding Administrator authorization will remain in full force and effect until written notice of termination of this authorization is sent by an Officer of the company and received by the Department.

A bidder identification and password, coupled with a company identification previously assigned by the Department, will serve as authentication that an individual is a valid bidder for the company.

Contact information to schedule a preconstruction meeting prior to commencing with the work on this project.

Mike Carlson
2300 Eglin St PO Box 1970
Rapid City, SD 57709-1970
Phone: 605/394-2244

PROPOSAL Revised 8/10/11

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, STATE OF SOUTH DAKOTA:

Ladies / Gentlemen:

The following proposal is made on behalf of the undersigned and no others. It is in all respects fair and is made without collusion on the part of any other person, firm or corporation not appearing in the signature to this proposal.

The undersigned certifies that she / he has carefully examined the plans listed herein, the Specifications hereinbefore referred to, the Special Provisions and the form of contract, both of which are attached hereto. The undersigned further certifies that she / he has personally inspected the actual location of the work, together with the local sources of supply and that she / he understands the conditions under which the work is to be performed, or, that if she / he has not so inspected the actual location of the work, that she / he waives all right to plea any misunderstanding regarding the location of the work or the conditions peculiar to the same.

On the basis of the plans, Specifications, Special Provisions and form of contract proposed for use, the undersigned proposes to furnish all necessary machinery, tools, apparatus and other means of construction, to do all the work and furnish all the materials in the manner specified, to finish the entire project **within the contract time specified** and to accept as full compensation therefore the amount of the summation of the products of the actual quantities, as finally determined, multiplied by the unit prices bid.

The undersigned understands that the quantities as shown in the Bid Schedule are subject to increase or decrease, and hereby proposes to perform all quantities of work, as increased or decreased, in accordance with the provisions of the specifications, and subject to any applicable special provisions, and at the unit prices bid.

The undersigned understands that the "Total or Gross Amount Bid" as immediately hereinbefore set forth is not the final amount which will be paid if this proposal is accepted and the work done, but that such amount is computed for the purpose of comparison of the bids submitted and the determination of the amount of the performance bond.

The undersigned further proposes to perform all extra work that may be required on the basis provided in the specifications, and to give such work personal attention in order to see that it is economically performed.

The undersigned further proposes to both execute the contract agreement and to furnish a satisfactory performance bond, in accordance with the terms of the specifications, within twenty (20) calendar days after the date of Notice of Award from the South Dakota Department of Transportation that this proposal has been accepted.

CERTIFICATION REGARDING LOBBYING

I certify, to the best of my knowledge and belief, that: No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any of the above mentioned parties, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty or not less than $10,000 and not more than $100,000 for each such failure.

REV 2/25/26

INDEX OF SPECIAL PROVISIONS

PROJECT NUMBER(S): IM-CR-EM 0901(187)44 PCN: 034J, 0A9K

TYPE OF WORK: GRADING, STRUCTURES (6X6 CIP OR PRECAST, 2-10X6 CIP, 3-10X4 PRECAST, 7X6 CIP OR PRECAST, 242'-6" PRESTRESSED GIRDER, 64' PRESTRESSED GIRDER, 10X10 CIP OR PRECAST, 3-12X5 CIP), PCC SURFACING, ASPHALT CONCRETE SURFACING

COUNTY: MEADE

The following clauses have been prepared subsequent to the Standard Specifications for Roads and Bridges and refer only to the above described improvement, for which the following Proposal is made.

The Contractor's attention is directed to the need for securing from the Department of Environment & Natural Resources, Foss Building, Pierre, South Dakota, permission to remove water from public sources (lakes, rivers, streams, etc.). The Contractor should make his request as early as possible after receiving his contract, and insofar as possible at least 30 days prior to the date that the water is to be used.

Jonathan England is the official in charge of the Spearfish Career Center for Meade County.

THE FOLLOWING ITEMS ARE INCLUDED IN THIS PROPOSAL FORM:

Special Provision for Contract Time, dated 4/13/26.

Special Provision for Subletting of Contract, dated 4/14/26.

Special Provision Regarding Right of Entry/Work Limits, dated 4/13/26.

Special Provision for Traffic Control Supervisor, dated 3/30/26.

Special Provision Regarding Section 404 of the Clean Water Act, dated 1/28/26.

Fact Sheet #14.

Agreement to Sell Materials (John G. Boylan & Christina M. Boylan, Stuart Boylan).

Special Provision for On-The-Job Training Program, dated 3/10/16.

Special Provision Regarding Railroad Insurance Requirements for RCP&E Railroad, dated 3/10/26.
NOTE: The Contractor WILL NOT be granted permission to proceed with any work on Railroad Right-of-Way until he has been notified by the Railroad that the insurance has been approved and the insurances and certificates has been provided to the SDDOT area office.
Special Provision Regarding Working on Railroad Property and Associated Contractor Permits Needed for RCP&E Railroad, dated 3/10/26.

Special Provision for Contractor Staking with Machine Control Grading Option, dated 3/30/26.

Special Provision for PI PCC Pavement Smoothness with 0.2" Blanking Band, dated 7/7/25.

Special Provision for Contractor Furnished Mix Design for PCC Pavement, dated 8/30/18.

Special Provision for Concrete Penetrating Sealer, dated 7/30/24.

Special Provision for Non-National Forest Fire Plan, dated 5/5/15.

Special Provision for Low Shrinkage Bridge Deck Concrete, dated 3/30/26.

Special Provision for Stainless Reinforcing Steel, dated 3/30/26.

Special Provision for Aggregate Column Reinforcement, dated 2/18/25.

Special Provision for Mechanically Stabilized Earth (Large Panel) Walls, dated 3/30/26.

Special Provision for Precast Modular Stem Wall (With SCC) dated, 4/9/26.

List of Utilities.

Special Provision for Price Schedule for Miscellaneous Items, dated 2/18/26.
Special Provision for American Security Drone Act, dated 12/15/25.
Special Provision for Steel Beam Guardrail AASHTO M 180 Designation, dated 10/1/25.
Special Provision for Acknowledgment and Certification Regarding Article 3, Section 12 of the South Dakota Constitution, dated 8/24/23.
Fuel Adjustment Affidavit, DOT form 208 dated 11/25.
Standard Title VI Assurance, dated 3/1/16.
Special Provision For EEO Affirmative Action Requirements on Federal and Federal-Aid Construction Contracts, dated 2/5/24.
Special Provision For Required Contract Provisions Federal-Aid Construction Contracts, Form FHWA 1273 (Rev. October 23, 2023), dated 10/18/23.
Required Contract Provisions Federal-Aid Construction Contracts, Form FHWA 1273 (Rev. 10/23/23).
Special Provision Regarding Minimum Wage on Federal-Aid Projects, dated 10/24/19.
Wage and Hour Division US Department of Labor Washington DC. - US Dept. of Labor Decision Number SD20260001, dated 1/30/26.

Special Provision Regarding Stormwater Discharges to Waters of the State, dated 11/5/25.

General Permit Authorizing Stormwater Discharges Associated with Construction Activities, dated 11/1/23.

https://danr.sd.gov/OfficeOfWater/SurfaceWaterQuality/stormwater/StormWaterConstruction.aspx

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
CONTRACT TIME

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

APRIL 13, 2026

August 17, 2026 Work Restriction

The Contractor will not begin any work on the project that affects I-90 traffic prior to August 17, 2026, unless approved by the Engineer.

2026/2027 Winter Shutdown

The Contractor will open all lanes to through traffic and not work on the project from November 25, 2026 through February 28, 2027 (inclusive). All roadways will be restored to original condition and open to original capacity. No drop-offs, uneven lanes, or unmarked lanes will be allowed during the 2026/2027 Winter Shutdown.

The Department will make a disincentive assessment in the amount of $2,000 per calendar day for the Contractor’s failure to comply with the 2026/2027 Winter Shutdown restriction. A contract item for incentive/disincentive pay is included in the bid schedule for the Department’s use in assessing disincentive. The Department will use a negative quantity of days for assessing disincentives.

2027 Sturgis Motorcycle Rally Restriction

The Contractor will open all lanes to through traffic on I-90, Sturgis Road, and I-90 ramps and will not work on this portion of the project from July 31, 2027 to August 15, 2027 (inclusive) due to the Sturgis Motorcycle Rally.

The Department will make a disincentive assessment in the amount of $5,000 per calendar day for the Contractor’s failure to comply with the Sturgis Motorcycle Rally restrictions. A contract item for incentive/disincentive pay is included in the bid schedule for the Department’s use in assessing disincentive. The Department will use a negative quantity of days for assessing disincentives. The Department will not grant time extensions for the Sturgis Motorcycle Rally restrictions for any reason.

Phase C Restriction

The Contractor may begin the portion of Phase C that establishes two-way traffic in the eastbound lanes of I-90 between MRM 43.289 and Sta. 1160+00 crossovers to begin the box culvert replacement under Westbound I-90 lanes no earlier than August 16, 2027. If the Contractor chooses to begin this portion of Phase C at this time, the Contractor will adhere to temporary ramp access as shown in Section C of the plans.

The Contractor will not begin the rest of Phase C until February 28, 2028.

2027/2028 Winter Shutdown

The Contractor will open all lanes to through traffic and not work on the project from November 24, 2027 through February 27, 2028 (inclusive). All roadways will be restored to original condition and open to original capacity. No drop-offs, uneven lanes, or unmarked lanes will be allowed during the 2027/2028 Winter Shutdown.

The Department will make a disincentive assessment in the amount of $2,000 per calendar day for the Contractor’s failure to comply with the 2027/2028 Winter Shutdown restriction. A contract item for incentive/disincentive pay is included in the bid schedule for the Department’s use in assessing disincentive. The Department will use a negative quantity of days for assessing disincentives.

July 29, 2028 No Excuse Interim Completion Lump Sum Bonus

The Department seeks to accelerate the construction of this project by offering a bonus to the Contractor for the timely interim completion of the project.

The Department will add a lump sum bonus of $2,000,000 to the contract if the Contractor meets the requirements for interim completion of the project by the no excuse interim completion lump sum bonus date of July 29, 2028.

For the Contractor to receive the bonus, the Contractor must open all lanes to unimpeded traffic on completed surfacing of all planned lanes and shoulders, install permanent pavement markings, install permanent signing, and complete all work except seeding, fertilizing, and mulching.

The Engineer will determine when the project is substantially complete.

Time extensions for the no excuse project substantial completion bonus date will not be given for any reason including but not limited to non-excusable delays, excusable compensable delays, excusable non-compensable delays, contract changes, weather delays, overruns of quantities, utility delays, material delays, unusual market conditions, strikes, lockouts, transportation delays, national disasters, area-wide shortages, seasonal limits, delays due to archeological or historical sites, or any other delay.

If the Contractor meets the no excuse interim completion lump sum bonus requirements, the Contractor will open all lanes to through traffic on the project and no work will be allowed from July 30, 2028 to August 14, 2028 (inclusive) due to the Sturgis Motorcycle Rally, unless otherwise approved by the Engineer in writing.

Beginning August 15, 2028, the Department will allow single lane closures for the completion of the remaining items of work (including, but not limited to, seeding, fertilizing, and mulching). The Department will allow single lane closures during daylight hours only and only when the Contractor is actively performing work. Daylight hours will be defined as sunrise to sunset.

If the Contractor violates any of the Winter Shutdowns or the 2027 Sturgis Rally Restriction, they will automatically forfeit the lump sum bonus of $2,000,000. In addition, the disincentives for the Winter Shutdowns or Sturgis Rally Restriction will still be charged.

Field Work Completion

The Contractor will complete the project by the December 1, 2028 field work completion date.

The Contractor will complete all work on the project prior to the field work completion requirement. If the Contractor does not complete all work by the field work completion requirement, the Department will assess liquidated damages in accordance with Section 8.9. The Department will assess liquidated damages for each working day the work (project) is late until the Contractor completes all field work.

In the event the Contractor does not complete all field work on time, the Department will count working days in accordance with Section 8.7 B.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
SUBLETTING OF CONTRACT

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

APRIL 14, 2026

Delete the 2nd paragraph of Section 8.1 and replace with the following:

The Contractor may subcontract up to 80% of the original contract amount, based on the contract unit prices, but must perform not less than 20% of the total amount of the original contract with the Contractor's own organization.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
REGARDING
RIGHT OF ENTRY/WORK LIMITS

IM-CR-EM 0901(187)44, PCN 034J, 0A9K
MEADE COUNTY

APRIL 13, 2026

All right of way or right of entry for this project has been secured or will be secured prior to the day of the letting with exception of the foregoing conditions. The contractor's work limits are confined to the area within the existing right of way adjacent to the parcel(s) listed in the table below until the property interests have been secured. The Region Engineer will notify the contractor of the date and time when work outside of the existing right of way may proceed. The anticipated possession date(s) are listed in the table below and are subject to change as determined by DOT.

PARCEL	OWNER	ANTICIPATED POSSESSION DATE
11, 11A, 20	Big D Oil Company	5/6/26
12	P5, LLC	

* * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR TRAFFIC CONTROL SUPERVISOR

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

MARCH 30, 2026

I. DESCRIPTION

This work consists of the Contractor providing a certified Traffic Control Supervisor (TCS) to oversee all traffic control operations including, but not limited to; vehicular traffic control, detour route traffic control, and pedestrian access route traffic control for the safety of workers and the traveling public.

II. MATERIALS

No material requirements.

III. CONSTRUCTION REQUIREMENTS

A. Certification: The TCS must be certified through the South Dakota AGC-DOT Traffic Control Supervisor Training and Certification program or the American Traffic Safety Services Association (ATSSA) Traffic Control Supervisor certification program and must have training and experience in the field of construction traffic control.

The Contractor will submit the name of the individual designated as the TCS to the Engineer prior to or during the preconstruction meeting for verification of qualifications by the Department's Operations Traffic Engineer.

B. Duties: Delete Section 634.3 E.5. of the specifications. The TCS will perform the following duties and responsibilities to the satisfaction of the Engineer:

1. The TCS will provide the name, phone number, and location of the TCS to the Department, SD Highway Patrol, county sheriff's office, and the local city police department.

2. The TCS is responsible for coordinating all temporary traffic control operations, including temporary traffic control operations needed for subcontractors and suppliers.

3. The TCS is responsible for implementing the project temporary traffic control plan. The TCS is also responsible for reviewing and, if needed, making recommendations to change the project temporary traffic control plan. Any change to the project temporary traffic control plan must be approved by the Engineer.

4. The TCS must be available as the 24 hour a day and 7 days a week contact responsible to ensure maintenance of temporary traffic control is performed, as needed.

5. The Contractor shall monitor and maintain all traffic control items. The Contractor is responsible for adjustments of traffic control items when traffic conditions change. A representative of the TCS or another employee of the Contractor may perform the routine maintenance of temporary traffic control devices. The TCS is responsible for any maintenance performed by other employees of the Contractor in accordance with Section III.B.2 duties for coordinating all temporary traffic control operations.

6. The TCS is responsible for and shall perform all required day time and night time inspections of all temporary traffic control devices on the project to verify the overall traffic control system is adequate and all devices are legible both during daylight hours and at night. This includes detour route signing. The inspections shall begin when the first traffic control sign or device is put into operation and end when the last traffic control sign or device is removed from operation. The TCS will provide the Engineer a written summary of each required day time and night time inspection. All inspections must ensure the temporary traffic control devices are clean, maintained, and functioning as intended.

   a. For night time inspections at the minimum frequency of once per week.

   b. For day time inspections at the minimum frequency of once per week.

7. In addition to the required day time and night time inspections, the TCS is required to be on-site at the work zone for the following, at a minimum:

   a. When requested by the Engineer and, in the sole discretion of the Engineer, there is a need requiring the attention of the TCS to address an issue with the current temporary traffic control devices or plan. Routine maintenance of the current temporary traffic control devices alone will not be considered as a need requiring the TCS to be on-site.

b. For major traffic shifts or phase changes.

c. After a storm or major event that has the potential to knock over or upend the temporary traffic control devices.

8. In conjunction with Section III.B.7.a and Section III.B.7.c of this special provision, the TCS is required to be on-site within a maximum of 4 hours of notification from the Engineer, or an alternate timeframe if mutually agreed upon by the Contractor and the Project Engineer. If there is an immediate safety concern or an immediate need to make an adjustment to any of the temporary traffic control devices, the Contractor will take measures to address the concern or need, to the satisfaction of the Engineer, prior to the TCS arriving on-site.

C. General: Temporary traffic control on the project will be furnished, maintained, and installed in accordance with Section 634 and the project plan notes and details.

IV. METHOD OF MEASUREMENT

Traffic Control Supervisor: Measurement for Traffic Control Supervisor will not be made.

V. BASIS OF PAYMENT

Traffic Control Supervisor: Traffic Control Supervisor will be paid for at the contract lump sum price. Payment will be full compensation for all costs associated with providing the Traffic Control Supervisor and performing all related duties.

Payment for Traffic Control Supervisor will be made as follows:

A. 20% of contract item lump sum price upon designation of certificated Traffic Control Supervisor.

B. 50% of contract item lump sum price when construction project is 25% completed.

C. 75% of contract item lump sum price when construction project is 50% completed.

D. 90% of contract item lump sum price when construction project is 75% completed.

E. 100% of contract item price when construction project is 100% completed and the Area Office has issued the Acceptance of Field Work in accordance with Section 5.16.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING
SECTION 404 OF
THE CLEAN WATER ACT

Project # IM-CR-EM 0901(187)44; PCN 034J
Meade County

January 28, 2026
NATIONWIDE PERMIT NO 14

The above referenced project is authorized by the Department of the Army Nationwide Permit Section (14), found in the December 27, 2021 Federal Register (86 FR 73522), Reissuance and Modification of Nation Wide Permits.

The following general conditions must be adhered to in order for any authorization by a nationwide permit to be valid:

Please refer to the attached ***Fact Sheet Nationwide Permit 14 and 2021 Nationwide Permits Regional Conditions***

The above authorization permits placement of fill in the drainage crossings or wetlands identified in the Section A plan notes.

PLEASE REFER TO THE TABLE OF WETLANDS IN THE SECTION A ENVIRONMENTAL COMMITMENTS.

<u>Nationwide Permit 14</u>
<u>Linear Transportation Projects</u>

<u>Expires March 15, 2031</u>

14. *Linear Transportation Projects.*

Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (*e.g.,* roads, highways, railways, trails, driveways, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1⁄2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge of dredged or fill material cannot cause the loss of greater than 1⁄3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project. This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

<u>Notification</u>: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if:

(1) the loss of waters of the United States exceeds 1⁄10-acre; or

(2) there is a discharge of dredged or fill material in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404).

<u>Note 1</u>: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

<u>Note 2</u>: Some discharges of dredged or fill material for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require preconstruction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision.'' The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) 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 or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. 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 the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. 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, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows, including tidal flows. The activity must not restrict or impede the passage of normal or high flows, including tidal flows, unless the primary purpose of the activity is to impound water or manage 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).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance. If mats are used to minimize soil disturbance, the affected areas must be returned to pre-construction elevations, and revegetated as appropriate. In circumstances where the use of mats has caused significant soil compaction, efforts using techniques (e.g., soil reaeration techniques) to break up the compaction should be employed to return the soil to a pre-construction state prior to returning to pre-construction elevations.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. 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.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal permittee should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle

Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects on properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects on any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects on historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activities authorized by NWPs, must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer 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.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) 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 individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, because streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible 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. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. <u>Safety of Impoundment Structures</u>. To ensure that all impoundment structures are safely designed, the district engineer may require non-federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. <u>Water Quality</u>. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed activity which may result in any discharge from a point source into waters of the United States must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by the certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed activity which may result in any discharge from a point source into waters of the United States in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed activity which may result in any discharge from a point source into waters of the United States is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge into waters of the United States, the permittee must submit a copy of the certification to the district engineer. The discharge into waters of the United States is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied (i.e., by the issuance of a water quality certification or a waiver and completion of the Section 401(a)(2) process).

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the division engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) The total acreage loss of waters of the United States for a single and complete project cannot exceed the acreage limit of the NWP with the highest specified acreage limit when multiple NWPs are used to authorize an activity.

(b) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States for that single and complete project cannot exceed that specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14 (which has an acreage limit of 1/3 acre in tidal waters), with associated bank stabilization authorized by NWP 13 (which does not have a specified acreage limit), the maximum acreage loss of waters of the United States for the total project cannot exceed 1⁄3-acre.

(c) If two or more of the NWPs used to authorize the single and complete project have specified acreage limits, the acreage loss of waters of the United States authorized by each of those NWPs cannot exceed the specified acreage limits of each of those NWPs. For example, if a commercial development is constructed under NWP 39 (which as a 1/2-acre limit), and the single and complete project includes the filling of a ditch authorized by NWP 46 (which has a 1-acre limit), the maximum acreage loss of waters of the United States for the construction of the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States caused by the combination of the NWP 39 and NWP 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit 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 nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

____

(Date)

30. <u>Compliance Certification</u>. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The successful completion of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. <u>Activities Affecting Structures or Works Built by the United States</u>. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. <u>Pre-Construction Notification</u>. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity

might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity’s purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of waters, wetlands, and other special aquatic sites on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate. For NWP 27 activities that require PCNs because of other general conditions or regional conditions imposed by division engineers, see Note 2 of that NWP;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the compensatory mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse

environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases where the prospective permittee is not a federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

E. Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

F. Nationwide Permit Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic ecosystem restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on: (1) the structure, functions, and dynamics of an aquatic ecosystem type or a riparian area type that currently exists in the region; (2) the structure, functions, and dynamics of an aquatic ecosystem type or riparian area type that existed in the region in the past; and/or (3) indigenous and local ecological knowledge that apply to the aquatic ecosystem type or riparian area type (i.e., a cultural ecosystem). Cultural ecosystems are ecosystems that have developed under the joint influence of natural processes and human management activities (e.g., fire stewardship). An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Nature-based solutions: Actions to protect, sustainably manage, and restore natural or modified ecosystems, that address societal challenges effectively and adaptively, simultaneously providing human well-being and biodiversity benefits.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. The substrate may also be comprised, in part, of organic matter, such as large or small wood fragments, leaves, algae, and other organic materials. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a “water of the United States.” If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

US Army Corps of Engineers®
Omaha District

2026 Nationwide Permits
Final Regional Conditions
Omaha District
State of South Dakota

The following Nationwide Permit (NWP) regional conditions will be used in the State of South Dakota. The issuance of the 2026 NWPs was announced in the June 18, 2025, publication of the Federal Register (90 FR 26100); the final action was published in the Federal Register (91 FR 768) on January 8, 2026. Regional conditions are placed on NWPs to ensure projects result in no more than minimal adverse impacts to the aquatic environment and to address local resources concerns.

A. PRECONSTRUCTION NOTIFICATION REQUIREMENTS APPLICABLE TO ALL NWPs

For all NWPs, permittees must notify the Corps in accordance with General Condition 32 Preconstruction Notification (PCN) requirements for regulated activities located within or comprised of the following:

1. Aquatic Resources of Special Concern:

Aquatic resources of special concern are resources that are difficult to replace, unique, and/or have high ecological function. PCN required for any regulated activity located in aquatic resources of special concern that fall into the categories listed below. The District Engineer may authorize activities under NWPs only after determining that the impacts to the following aquatic resources of special concern will be no more than minimal:

a. **Wetlands classified as peatlands:** For the purposes of this condition, peatlands are permanently or seasonally waterlogged areas with a surface accumulation of peat (organic matter) 30 centimeters (12 inches) or more thick. Under cool, anaerobic, and acidic conditions, the rate of organic matter accumulation exceeds organic decay. Any peat-covered areas, including fens, bogs, and muskegs, are all peatlands.

   i. PCN required for NWP 3, 5, 6, 20, 27, 32, 38 and 45.

   ii. All NWPs not listed above are revoked for use in peatlands.

b. **Natural Springs:** Within 100 feet of the water source in natural spring areas. For the purpose of this condition, a spring water source is defined as any location where there is flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source of waters. Springs do not include drain tile outlets.

2. Tribal Reservations and Tribal Trust Lands:

PCN required for any regulated activity located within Tribal Reservations and Tribal Trust Lands. The following link provides a map showing Tribal Reservations and Tribal Trust Lands: https://onemap-bia-geospatial.hub.arcgis.com/apps/718497a94a15450d8d48b51625dc330f/explore

B. CONSTRUCTION PRACTICES:

1. Suitable Material:

Permittees are reminded of General Condition No. 6 which prohibits use of unsuitable material. A list of materials prohibited or restricted as fill material in waters of the United States within the Omaha District can be found at: http://www.nwo.usace.army.mil/Media/FactSheets/FactSheetArticleView/tabid/2034/Article/12320/ prohibited-restricted-materials.aspx

2. Revegetation of Disturbed Areas:

All jurisdictional waters disturbed by construction shall be revegetated with appropriate perennial, native grasses and forbs and maintained in this condition. Seed mixes shall not include invasive or noxious species. The following link provides information and resources on invasive species: https://www.invasivespeciesinfo.gov/us

3. Culvert Countersinking:

For all NWPs in streams with relatively permanent flow and a stable stream bed, culvert stream crossings shall be installed with the bottom of the culvert set below the natural stream channel flow line. This regional condition does not apply in instances where the lowering of the bottom of the culvert would allow a headcut to migrate upstream of the project into an unaffected stream reach or result in lowering the elevation of the stream reach.

a. The stream's flow line (or the main path of the water) will be determined by calculating the average elevation along the streambed during periods when the stream is at its lowest flow levels.

b. The slope of the culvert should be parallel to the slope of the stream flow line.

c. Riprap inlet and outlet protection shall be placed to match the height of the bottom of the culvert.

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

November 24, 2025

Nathan Morey
US Army Corps of Engineers
South Dakota Regulatory Office
28563 Powerhouse Road, Room 118
Pierre, SD 57501

RE: 2026 Renewal Section 404/10 Nationwide Permits
South Dakota 401 Water Quality Certification

Dear Mr. Morey:

The South Dakota Department of Agriculture and Natural Resources (DANR) has reviewed the request for water quality certification under Section 401 of the Clean Water Act regarding the 2026 reissuance of the US Army Corps of Engineers' Nationwide Permits. Section 401 of the Clean Water Act requires this review before a federal permit is granted.

DANR is granting water quality certification for Nationwide Permits #12 (Oil or Natural Gas Pipeline Activities), #57 (Electric Utility Line and Telecommunications Activities), and #58 (Utility Line Activities for Water and Other Substances) with conditions. DANR prohibits the Typical Open Cut Wet Crossing Method (flowing waterbody) in South Dakota waterbodies that have flowing water OR in waters specifically listed in Administrative Rules of South Dakota (ARSD) 74:51:02 or 74:51:03. Other crossing method alternatives include the Dry Flume Method, Dry Dam and Pump Method, and Horizontal Directional Drill. Any other methods not expressly listed must receive prior written approval. The Typical Open Cut Wet Crossing Method consists of digging a trench through the waterbody. This method could cause high sediment suspension in the water body and result in high sediment transport during the digging process, while the trench is stabilizing in the waterbody, and when the trench is backfilled and the pipeline is buried. This crossing method is prohibited because DANR cannot certify that water quality will be protected if that crossing method is used.

Additionally, if horizontal directional drilling is used, the applicant must prepare an emergency response and remediation plan for use in the event of a spill or frac-out. Spills and frac-outs must be reported to DANR at (605) 773-3296 (605-773-3231 after hours).

These conditions are required to ensure compliance with surface water quality standards including ARSD 74:51:01:06; 74:51:01:12, and 74:51:01:45-49; and South Dakota Codified Laws (SDCL) 34A-2-10 and 34A-2-11.

DANR is granting water quality certification for Nationwide Permit #16 (Return Water from Upland Contained Disposal Areas) with conditions. The project proponent must properly install, operate, and maintain sediment and erosion controls surrounding all dredged disposal areas. Best management practices must be in place to ensure that return water does not violate any surface water quality standards under ARSD 74:51:01-03. The return water shall not contain toxic pollutants in toxic amounts (ARSD 74:51:01:55), shall not cause a sheen or film on the receiving water (ARSD 74:51:01:10); shall not contain visible pollutants (74:51:01:06), shall not contain sediment in excess of state water quality standards, (74:51:01:45-49), and shall not impact the biological integrity of the receiving waters (ARSD 74:51:01:12). To ensure compliance, the applicant shall develop a DANR-approved water quality monitoring plan and submit weekly compliance reports to DANR. These conditions are collectively required to ensure compliance with surface water quality standards and are supported under ARSD 74:51:01 and SDCL 34A-2-10, 34A-2-11, and 34A-2-21.

DANR is granting water quality certification for Nationwide Permits #19 (Minor Dredging), #27 (Aquatic Ecosystem Restoration, Enhancement, and Establishment Activities), #35 (Maintenance Dredging of Existing Basins), #53 (Removal of Low-Head Dams), and Nationwide A with conditions. Under ARSD 74:51:01.60, DANR approval is required on water resource enhancement or restoration projects. A public notice published in a local newspaper serving the project areas is required by ARSD 74:51:01:60 to inform the public and solicit comments on the proposed project. The applicant must submit the required information detailed in ARSD 74:51:01:60 for DANR review and approval before the project can begin. Therefore, DANR will grant 401 certification of Nationwide Permits #19, 27, 35, 53, and A with the condition that the project proponent gain project approval through DANR. More information is available at: https://danr.sd.gov/OfficeOfWater/SurfaceWaterQuality/waterqualitystandards/swqrestoration.aspx.

Water resource enhancement and restoration project approval is necessary to ensure that the project will adequately address restoration/enhancement objectives, provide appropriate erosion control Best Management Practices to protect water quality, and provide the public the opportunity to comment on the project activities.

The project proponent must properly install, operate, and maintain sediment and erosion controls surrounding all dredged disposal areas and install, operate, and maintain sediment control barriers within the affected waterbody. Additionally, project construction notification is required for these NWP authorizations. These conditions are required under ARSD 74:51:01.60 and are supported under SDCL 34A-2-10 and 34A-2-11.

DANR is granting water quality certification for Nationwide Permits #29 (Residential Developments) and #39 (Commercial and Institutional Developments) with conditions. Nationwide Permits #29 and #39 allow attendant features, including the construction of on-site septic systems in wetland areas. DANR has determined that these attendant features conflict with state water pollution control laws and regulations. Allowing this type of activity compromises the integrity of the state's surface and ground water resources and the state's efforts to protect them. Therefore, DANR will grant 401 certification of Nationwide Permits #29 and #39 with the condition that the project proponent follow all rules under ARSD 74:53:01 and SDCL 34A-2-20 through 34A-2-22, and 34A-2-93. These conditions are supported by ARSD 74:53:01 and SDCL 34A-2-1, 34A-2-20 through 22, 34A-2-36, 34A-2-36.1, and 34A-2-104.

DANR is granting water quality certification for Nationwide Permits #29 (Residential Developments), #39 (Commercial and Institutional Developments), #40 (Agricultural Activities), #42 (Recreational Facilities), #43 (Stormwater Management Facilities), #51 (Land-Based Renewable Energy Generation Facilities), and #52 (Water-Based Renewable Energy Generation Pilot Projects) with conditions. DANR is granting water quality certification for Nationwide Permits # 29, 39, 40, 42, 43, 51, and 52 with the condition that a maximum 300 linear foot limit be placed on impact. This condition applies to all waters of the state. This is measured along the ordinary high-water mark along the shoreline of a lake or reservoir. For a wetland, this is measured along the delineated boundary between wetland characteristics and upland. Along a stream, creek, or river, the 300 linear feet is measured along the center of the streambed. This limit is necessary to ensure that the project does not individually or cumulatively result in more than minimal adverse impacts to water quality. South Dakota has many small intermittent and perennial streams that are narrow in width. Simply using the ½ acre limit to apply to these Nationwide Permits would not adequately protect small South Dakota Streams and could potentially result in the loss of hundreds or thousands of miles of small South Dakota streams. Under SDCL 34A-2-1, the public policy is to conserve the waters of South Dakota and to protect, maintain, and improve the quality thereof for water supplies, for the propagation of wildlife, fish, and aquatic life. Not having any maximum linear limit to this Nationwide Permit does not meet the stated policy of SDCL 34-A-2-1.

The following general conditions apply to all Nationwide Permits:

1) Coverage under the General Permit Authorizing Stormwater Discharges Associated with Construction Activities (aka: Construction General Permit, CGP) must be obtained from DANR if construction activities disturb one or more acre of land. A copy of the general permit and the notice of intent for coverage are available on DANR's website at: https://danr.sd.gov/OfficeOfWater/SurfaceWaterQuality/stormwater/StormWaterConstruction.aspx.

   This requirement is authorized under Administrative Rule of South Dakota (ARSD) 74:52:02:36 and South Dakota Codified Law (SDCL) 34A-2-36.

2) Excavated and dredged material from wetland areas must be removed and disposed of in an upland location away from streams and wetlands. Return water from excavated or dredged material may not be allowed to re-enter waters of the state without authorization of a DANR-approved water quality monitoring plan (see NWP #16 conditions). This condition is authorized under ARSD 74:51:01:12 and SDCL 34-A-2-21.

3) Methods shall be implemented to minimize the spillage of petroleum, oils, and lubricants used in equipment, machinery, and vehicles during construction activities. If a spill occurs during construction activity, that spill must be reported to DANR at (605) 773-3296 (605-773-3231 after hours). These materials may not be discharged or caused to be discharged into waters of the state per ARSD 74:51:01:06 and 74:51:01:10 and SDCL 34A-2-93.

DANR is waiving certification for Nationwide Permit #34 (Cranberry Production Activities), #48 (Commercial Shellfish Mariculture Activities), #54 (Living Shorelines), and #55 (Seaweed Mariculture Activities). These activities are unlikely to occur in South Dakota.

DANR is denying water quality certification for Nationwide Permit #21 (Surface Coal Mining Activities), #44 (Mining Activities), #49 (Coal Remining Activities), and #50 (Underground Coal Mining Activities). State law directs any disturbances to the prevailing hydrologic cycle, including water quality and quantity, be minimized during mining and reclamation activities. DANR cannot certify that the uncontrolled use of these permits would result in minimal disturbance or meet state surface water quality standards due to the potential of acid rock drainage or metal-laden waters occurring in mining areas. Nationwide Permits #21, #44, #49, and #50 conflict with state water pollution control laws and regulations that require activities be permitted and follow strict guidelines. This denial is based upon ARSD 74:11, 74:12, 74:29, SDCL 45-6B-41, 45-6B-81, and the potential inability of mining operations to adequately protect surface waters under ARSD 74:51:01.

DANR is granting water quality certification for all other Nationwide Permits not expressly listed with conditions, waived, or denied. DANR has determined that any potential discharge associated with the Nationwide Permits, following the Corps' limits and notification requirements, general guidelines, and regional conditions will comply with South Dakota water quality standards.

This certification has met applicable public notice requirements per ARSD 74:51:01:64, 74:51:01:64.01, 74:51:01:64.02, and 74:51:01:64.03 pursuant to CWA 401(a)(1).

South Dakota's water quality certification is based upon the draft 2026 Nationwide Permits published in the Federal Register. The Corps is requiring the water quality certification to be completed while the Nationwide Permits are still under public comment and prior to the final permits being published.

If you have questions pertaining to this certification, please contact Shannon Minerich at Shannon.Minerich@state.sd.us. Thank you for ensuring the continued protection of our natural resources.

Sincerely,

Hunter Roberts

Hunter Roberts
Secretary

cc: Estella Moore, US EPA, Denver
Aaron M. Blair, US EPA, Denver

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

DENVER, CO 80202

December 16, 2025

SENT VIA EMAIL

Nathan Morey
U.S. Army Corps of Engineers
Omaha District
South Dakota Regulatory Office
Nathan.M.Morey@usace.army.mil

RE: Clean Water Act Section 401 Water Quality Certification of the U.S. Army Corps of Engineers 2026 Nationwide Permits in South Dakota

Dear Mr. Morey:

Please find enclosed the water quality certification decisions consistent with Section 401 of the Clean Water Act (CWA) for the reissuance of the Nationwide Permits (NWP). On June 18, 2025, the U.S. Environmental Protection Agency, Region 8 received the U.S. Army Corps of Engineers' requests for water quality certification under CWA Section 401 for the proposed 2026 NWPs. The EPA reviewed the June 18, 2025, Federal Register[1] notice announcing the reissuance of the NWPs, along with the regional conditions proposed by the Omaha District for South Dakota. The enclosed CWA section 401 water quality certification decision applies where the EPA is the certifying authority and includes Indian country[2] lands within the state of South Dakota[3] and lands of exclusive federal jurisdiction in relevant respects within the state of South Dakota.[4]

---

[1] See 90 FR 26100 (June 18, 2025).

[2] Indian country is defined at 18 U.S.C. § 1151.

[3] Indian country in South Dakota generally includes (1) lands within the exterior boundaries of the following Indian reservations located within South Dakota: the Cheyenne River Reservation, the Crow Creek Reservation, the Flandreau Indian Reservation, the Lower Brule Reservation, the Pine Ridge Reservation, the Rosebud Indian Reservation, the Standing Rock Reservation, and the Yankton Reservation (subject to federal court decisions removing certain lands from Indian country status within the Yankton Reservation); (2) any land held in trust by the United States for an Indian Tribe (including but not limited to the Sisseton-Wahpeton Oyate Tribe and the Turtle Mountain Band of Chippewa Indians); and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. Section 1151. The enclosed CWA Section 401 certification document specifies where these decisions apply.

[4] An inventory report compiled by the U.S. General Services Administration for federal properties as of 1962 identifies properties that may contain exclusive federal jurisdiction. This document is accessible at https://www.congress.gov/116/meeting/house/110088/documents/HHRG-116-II13-20191017-SD044.pdf. The EPA notes that this inventory report is not all-inclusive and that the information contained within it has not been recently confirmed

U.S. Environmental Protection Agency Region 8's Clean Water Act Section 401 Certification of the 2026 Nationwide Permits in the State of South Dakota

December 16, 2026

Clean Water Act (CWA) Section 401 requires applicants for Federal licenses or permits to conduct any activity which may result in any discharge into waters of the United States to obtain a certification or waiver from the certifying authority where the discharge originates or will originate. Where no state or Tribe has authority to give such certification, the U.S. Environmental Protection Agency is the certifying authority. 33 U.S.C. 1341(a)(1). In this case, the Cheyenne River Sioux Tribe, Crow Creek Sioux Tribe, Flandreau Santee Sioux Tribe, Lower Brule Sioux Tribe, Oglala Sioux Tribe, Rosebud Sioux Tribe, Sisseton-Wahpeton Oyate, Standing Rock Sioux Tribe, and Yankton Sioux Tribe do not have authority to provide CWA Section 401 certifications for projects occurring on their reservations, or any other Indian country lands[1], within the State of South Dakota. The Turtle Mountain Band of Chippewa Indians and the Shakopee Mdewakanton Sioux Community also do not have that authority for their Tribal trust lands within the State of South Dakota. Therefore, the EPA is making the CWA Section 401 certification decision for the 2026 Nationwide Permit reissuance in Indian Country in the state of South Dakota. Additionally, the state of South Dakota does not have authority to provide CWA section 401 certification for project lands of exclusive federal jurisdiction in relevant respects.[2] Therefore, EPA is also making the certification decision for the 2026 NWP reissuance for projects within lands of exclusive federal jurisdiction in relevant respects that may be authorized under the 2026 NWPs.

---

[1] Indian country in South Dakota generally includes (1) lands within the exterior boundaries of the following Indian reservations located within South Dakota: the Cheyenne River Reservation, the Crow Creek Reservation, the Flandreau Indian Reservation, the Lower Brule Reservation, the Pine Ridge Reservation, the Rosebud Indian Reservation, the Standing Rock Reservation, and the Yankton Reservation (subject to federal court decisions removing certain lands from Indian country status within the Yankton Reservation); (2) any land held in trust by the United States for an Indian Tribe (including but not limited to the Sisseton-Wahpeton Oyate Tribe and the Turtle Mountain Band of Chippewa Indians); and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. Section 1151.

[2] An inventory report compiled by the U.S. General Services Administration for federal properties as of 1962 identifies properties that may contain exclusive federal jurisdiction. This document is accessible at https://www.congress.gov/116/meeting/house/110088/documents/HHRG-116-II13-20191017-SD044.pdf. The EPA notes that this inventory report is not all-inclusive and that the information contained within it has not been recently confirmed and/or updated. Please contact EPA Region 8 at R8CWA401@epa.gov with questions regarding the jurisdictions where this certification decision applies.

- Prior to work commencing, EPA recommends that project proponents notify the appropriate Tribal Environmental Office, if applicable.
- In the case of a spill, EPA recommends that the project proponent notify EPA Region 8 within 8 hours from discovery. For emergency spills, EPA recommends that the project proponent contact the EPA's National Response Center at 1-800-424-8802 as well as the appropriate personnel identified in the project's Spill Prevention Control and Countermeasures, or similar plan, if applicable.
- If you have any questions regarding this certification, please contact R8CWA401@epa.gov.

Waiver of Certification

EPA Region 8 is expressly waiving its authority to act on the CWA § 401 request for certification for NWPs 4, 22, 34, 48, and 54.

Grants of Certification without Conditions

EPA is <u>granting certification without conditions</u> for NWPs 5, 20, 27, and 32. For NWPs that EPA grants certification without conditions, EPA has determined that the activity will comply with the applicable water quality requirements, including any limitation, standard, or other requirement under sections 301, 302, 303, 306, and 307 of the CWA; any Federal and State or Tribal laws or regulations implementing those sections; and any other water quality-related requirement of State or Tribal law.

Grants of Certification with Conditions

EPA is <u>granting certification with conditions</u> for NWPs 3, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 25, 29, 30, 31, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 49, 50, 51, 52, 53, 57, 58, 59, and A. For NWPs that EPA grants certification with conditions, EPA has determined that the activity will comply with the applicable water quality requirements, including any limitation, standard, or other requirement under sections 301, 302, 303, 306, and 307 of the CWA; any Federal and State or Tribal laws or regulations implementing those sections; and any other water quality-related requirement of State or Tribal law, subject to the conditions listed under the NWP below, pursuant to CWA Section 401(d).

<u>Condition #1: Plan Development and Implementation for Projects that require Pre-Construction Notification (PCN)</u>

Prior to construction for projects that require a PCN, the project proponent shall develop a plan that includes a copy of the PCN and the following information (if not already included in the PCN):

- Time stamped photo-documentation of the baseline conditions (i.e., 50 feet upstream of the project area, within the project area, and 100 feet downstream of the project area).
- Identifies on a site map, as applicable:
  - Project site with all waters of the U.S. demarcated. Identify all locations where the project will cross jurisdictional waterbodies and identify the ordinary high-water mark and/or wetland boundaries; the planned work area where wetlands/aquatic resources will be removed, disturbed, and/or protected; buffer zones; and areas to be

in the immediate vicinity of discharge points. The project proponent shall ensure all erosion and sediment control measures are in place prior to the onset of construction.

  - Bank stabilization and channel modification: If the project requires bank stabilization or stream channel modification, include pre-construction cross sections. If the project includes steep bank slopes of 3:1 or greater, include revetment cross sections. Bioengineering techniques suitable for steep slope disturbances are preferred (e.g., vegetated toe, bioengineered boulder toe, etc.) Slopes of disturbed banks shall be designed and installed to not reduce the bottom width of the stream.
  - Dewatering: Work shall be completed in the dry unless coordinated with EPA Region 8. Describe methods for dewatering, including the equipment that would be used to conduct the dewatering activities. Identify the locations and timing, including length of time the area is to be dewatered. Explain removal method of the temporary structures and/or fill and what measures will be taken to minimize downstream turbidity and adaptive management measures that will be taken and employed to prevent the draining of waters of U.S., including wetlands.
  - Ditching and trenching: Explain ditching/trenching and material placement techniques and stabilization methods to be employed, as well as timing. In wetlands, the top 6 to 12 inches of the ditch/trench shall be backfilled with topsoil from the trench, unless other techniques are approved. Include activity timing needs for ditching and stabilization.
  - Undergrounding or directional drilling: Describe measures taken to prevent, contain and cleanup any inadvertent return of drilling fluid to the surface (i.e., "frac-outs").
- Submit the plan to EPA Region 8 at R8CWA401@epa.gov at least 30 days prior to commencing construction activities.

During construction for projects that require a PCN, the project proponent shall:

- Visually inspect construction activities daily.
- Prevent sediment, debris, silt, sand, cement, concrete, oil or petroleum, organic materials, or other construction debris or wastes from entering waters of the U.S. The discharge of unset cement, concrete, grout, or water that has contacted uncured concrete or cement, or related washout to waters of the U.S. is prohibited.
- Maintain documentation onsite that all equipment was cleaned of dirt, mud, and other materials prior to arriving on the project site.
- Inspect all equipment daily and prior to entering any waters of the U.S. for oil, gas, diesel, anti-freeze, hydraulic fluid, and other petroleum leaks. If the project proponent detects a leak from any equipment, they shall immediately remove the equipment from waters of the U.S.; and within 24 hours of detection of a leak, repair the equipment in a staging area or move it offsite.
- Limit vegetation clearing and disturbance to waters. Limit the clearing and grubbing of vegetation and disturbance to areas demarcated on the site map submitted as part of the vegetation restoration and monitoring plan. The boundaries of vegetation to protect shall be flagged in the field prior to beginning construction activities.
- Limit restoration of the channel bed to pre-existing contours and conditions. Any proposed deviations must be specified in advance. For example, if any improvements will be made

implementation where employed measures were ineffective.

- For activities that require dredging, submit a copy of the as-builts and a post dredged and disposal report within 45 days of each dredging or disposal event to EPA Region 8 at R8CWA401@epa.gov. The project proponent shall include the following items in the post-dredged and disposal report:
  - Dredging and disposal dates.
  - Updated site map displaying the disposal location(s).
  - Dredging and disposal volumes.
  - Water quality monitoring data.
  - Post-dredged bathymetry.
  - Updated site maps displaying any new ditches, spoil piles, widths, and depths.

Why these conditions are necessary: This condition is necessary to minimize suspended particulates /turbidity caused by construction activities and is necessary to ensure water quality is not degraded by toxic pollutants in toxic amounts, including construction materials, oil, grease, gasoline, or other types of fluids used to operate and maintain equipment used to complete the project, or discharges from dust abatement activities as well as contaminants in dredged material. This condition also appropriately minimizes impacts from access roads, staging areas, and stockpiling to further ensure that construction activities will result in no more than minimal individual and cumulative adverse environmental effects. This condition will protect water quality because it ensures that the project proponent is using planning and construction practices that will maintain the integrity of the site hydrology and maintain the aquatic resource functions and values and ensures that appropriate revegetation measures are used to re-establish riparian/wetland vegetation to minimize the adverse impacts of discharges of sediment and pollutants that enter waterways. Limiting the amount of vegetation that is disturbed will minimize the adverse environmental impacts of any potential discharges. Monitoring for at least three growing seasons, or until replanted areas meet monitoring success criteria, will provide an adequate indication that the restoration effort is able to demonstrate restoration is successful.

The general conditions in the Corps' NWP package do not address concerns about resuspension and turbidity caused by construction and dredging activities, thereby justifying the inclusion of this condition. GC 32 only requires agency coordination in certain circumstances. Additionally, GC 11 (equipment), GC 12 (soil erosion and sediment controls), and GC 13 (removal of temporary structures and fills) provide some aquatic resource protections, but greater specificity is needed to determine what measures are suitable to comply with applicable water quality requirements.

movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. Pools are characterized by a slower stream velocity, a steaming flow, a smooth surface, and a finer substrate.

- **Wild rice (*Manoomin/Manomin*) Waters:** Wild rice is especially sensitive to changes in water quality, hydrology changes, competition with invasive plants, and habitat loss.[5]

Why this condition is necessary: This condition is necessary to ensure a case-by-case review of any point source discharges into waters of the United States that are proposed in these specific aquatic resource site types which are inherently difficult to replace and have important ecological functions and values. Discharges into these systems have the potential to alter water circulation patterns and hydroperiods, release nutrients causing shifts in native to non-native species composition, release chemicals that adversely impact biota (plants and animals), increase turbidity levels, reduce light penetration and photosynthesis, or otherwise change the capacity of these systems to support aquatic life uses and other beneficial uses of these special aquatic sites, including impairing their diverse and unique communities of aquatic organisms, including fish, wildlife and the habitats upon which they depend. Project specific information is needed to ensure compliance with water quality requirements.

Citations: 40 C.F.R. 230.1(d); 40 C.F.R. 230.10(a)(3); 40 C.F.R. 230.10(c); 40 C.F.R. 230.10(d); 40 C.F.R. 230.20-24; 40 C.F.R. 230.21-22; 40 CFR 230.41; 40 C.F.R. 230.45; 40 C.F.R. 230.75(c); Tribal Water Quality Requirements[6]

Condition #3: Specific Condition for Bridges for NWPs 3, 14, 15, 57, 58 and A

Project proponents shall use an established bridge analysis and hydraulic design tool when designing and constructing bridges (e.g., HEC-RAS, FHWA, etc.). Bridges shall be constructed in a manner such that stormwater does not drain directly into the waterbody. Bridges shall span greater than or equal to 1.2 times the bankfull width and adjacent wetlands of the affected waterbody, where feasible. Crossings shall be placed perpendicular to the direction of the stream flow where possible and account for potential future lateral migration in the stream, unless the project proponent can document that this would result in increased impacts to aquatic resources or compromise the safety of the structure.

---

[5] https://plants.usda.gov/DocumentLibrary/plantguide/pdf/pg_ZIAQ.pdf, last visited 11 Dec 2025.

[6] Oglala Sioux Tribe: Water Quality Management Code, Antidegradation Policy § 1-2-206. Rosebud Sioux Indian Tribe: Title 19: Environmental Protection § 19-6-103 and § 19-6-104. Sisseton-Wahpeton Oyate: Title III Water Quality: Section 61-03-08, Antidegradation Policy, Narrative WQS. Standing Rock Sioux Tribe: WQS Sections 3(a) designated uses, Section 4(a)(5) criteria, Section 9 Narrative WQS, Section 10 Outstanding Tribal Resource Waters, and Section 11 Antidegradation Policy and Review Process; Cultural Resource Ordinance 189; Section 9-1501 establishes "Protected Areas... for fish and wildlife management, propagation, (or) scientific research." Section 9-1502 may include wetlands "to offset losses" and protect under Sections 9-1501 and 9-1502.

<u>Condition #5: Specific Condition for NWP 13</u>

For projects using gabions, the project proponent shall visually inspect and repair any damage to gabions and the gabion installation area after construction is completed at least once a year after spring flows.

Why this condition is necessary: This condition is necessary to reduce the individual and cumulative adverse environmental effects caused by hard bank stabilization structures on aquatic biodiversity, habitat, and aquatic resource functions and services. This condition is also necessary to minimize the potential for gabion failure and corresponding water quality impacts. Gabion failure leads to erosion and sediment release, which can significantly affect aquatic ecosystem diversity, productivity and stability, and can potentially release wire into the environment that can impact aquatic habitat. Rock released from damaged gabions can impact channel flow, which can interfere with aquatic habitat processes and infrastructure.

Citations: 40 CFR 230.10(c)-(d); 40 CFR 230.72; 40 CFR 230.74; Tribal Water Quality Requirements[10]

<u>Condition #6: Specific Condition for NWP 16</u>

The project proponent shall provide EPA Region 8 with a description of the return water from the upland disposal area prior to discharge, including a description of the nature of the dredged material and a description of any contaminants present in the discharge. The project proponent shall also provide an analysis of how the return water may impact the physiochemical conditions of the receiving water prior to discharge, including a description of how the project proponent will ensure controls are in place to ensure compliance with applicable water quality requirements.

Why this condition is necessary: This condition is necessary to ensure any return water meets applicable water quality requirements and does not degrade receiving waters. Dredged material from industrial and urban areas, stormwater and agricultural runoff, as well as from areas of natural deposits of minerals and other natural substances, often contain contaminants from these sources and may have the potential to alter the chemistry of receiving waters, including but not limited to, nutrients, metals, organic carbon, and invasive species. To ensure that all appropriate and practicable measures to minimize harm to the aquatic ecosystem from contaminants are addressed, the project proponent should consider the unique nature of dredged material and the related contaminant pathway to understand the physicochemical conditions of each disposal site under consideration.

Citation: 40 CFR 230.10(b)-(d); 40 CFR 230.11; 40 CFR 230.12; 40 CFR 230.22; 40 CFR 230.31; 40 CFR 230.32; 40 CFR 230.61; Tribal Water Quality Requirements[11]

---

[10] Ibid.

[11] Ibid.

STATE OF SOUTH DAKOTA
AGREEMENT TO SELL MATERIALS

DOT-44B
(08/2018)

Stuart A. Boylan, John G. Boylan & Christina M. Boylan, collectively referred to in this Agreement as the "Owner", for and in consideration of the mutual promises and agreements contained in this Agreement, the receipt and sufficiency of which is acknowledged, grants a **NON-EXCLUSIVE** option to the **State of South Dakota**, acting by and through its **Department of Transportation**, referred to in this Agreement as the "State," for the purpose of making the necessary tests for and purchasing borrow soil necessary for use in the construction, maintenance, and repair of highways. The Owner will sell, transfer, and convey to the State such material located in and upon the following described real property situated in **Meade County, South Dakota**, more particularly described as follows, to wit:

Part of the North Half of the Northwest Quarter of Section Fourteen (N1/2 NW1/4 14) of Township Three North (3N) Range Six East (6E) of the Black Hills Meridian, Meade County, South Dakota.

Part of the South Half of the Southwest Quarter of Section Eleven (S1/2 SW1/4 11) of Township Three North (3N) Range Six East (6E) of the Black Hills Meridian, Meade County, South Dakota.

This Agreement is intended to allow the removal of soil.

The term of this Agreement will be from **April 1, 2026,** to either the completion of **Project: IM 0901(187)44, PCN 034J, Meade County or December 31, 2028, whichever occurs first.**

The Owner agrees that the State, and any and all employees, servants, agents, contractors, or workers authorized by the State, will have full and free right of ingress and egress from the public highway and will have the right to operate all necessary equipment on the real property described in this Agreement for any purpose allowed or required by this Agreement. The term "necessary equipment" will include, but is not limited to, equipment required to open the pit, produce materials, blend and mix with other materials, haul materials, service equipment, and restore the pit.

The State reserves the right to assign this Agreement to any party or parties performing the contracts for which the material will be required. Upon assignment of said Agreement, said party or parties will have all rights granted under this Agreement to the State and will assume all obligations of the State under this Agreement.

The State will pay to the Owner, from monies withheld from its Contractor, for material removed from said real property at a rate of:

$0.50 (fifty cents) per cubic yard.

The State will restore fencing disturbed by the State's operations under this Agreement to as good a condition as the fencing was in before work started. In the event a temporary fence is required around the pit to protect livestock, such fence will be erected at the expense of the State.

The State will operate the pit and will restore the affected area on completion of operations at the pit site in accordance with the General Provisions of "SOUTH DAKOTA DEPARTMENT of TRANSPORTATION STANDARD SPECIFICATIONS FOR ROADS AND BRIDGES" and the following:

1. The affected area will be restored for use as **pasture.**
2. Topsoil, to be stockpiled separately from the rest of the overburden, will be considered to consist of the upper **4** inches of natural soil.
3. At the completion of removal operations, the State will restore areas disturbed by the State's operations at the pit site with slopes created by material removal left **6:1** or flatter.
4. Prior to the beginning of the borrow operations, the Owner or the Owner's representative, the State's Engineer, and the State's contractor will meet and discuss the limits of work and pit operations.
5. The State will pay a one (1) time payment in the amount of $ **100.00** per acre per year for **2** year(s) to cover loss of use of the real property.
6. The State will pay a one (1) time payment for crop damage at the rate of $ ***N/A*** per acre.
7. Seeding Options: **Check one of following three options**.
   - ☒ The State will seed, mulch, and fertilize the disturbed area to permanent seed mixtures as shown in the plans; or
   - ☐ The Owner will, after the State replaces the topsoil, re-vegetate or cultivate the area at a time and in a manner consistent with the Owner's farming operations and land use plan. The State will pay a one (1) time payment in the amount of _____ per acre to cover cost of such re-vegetation; or
   - ☐ Not applicable.
8. Other conditions: (if none, enter "none")
   - Exposed rock that cannot be hand-passed through a two (2) inch square opening will be disposed of.

The parties agree that any fossils or archaeological artifacts discovered during the borrow process are the property of the owner. The State will notify Owner upon discovery of any such objects. The Owner hereby releases an agrees to hold harmless the State and its employees, agents, representatives, and Contractors for any damages sustained to such objects prior to State ascertaining their nature.

The State will not separately measure or record the amount of material removed from each individual parcel described above. The parties agree that all payments made by the State pursuant to this Agreement will be made to John & Christina Boylan. Thereafter, Owners will be responsible for any allocation or division of the payments among themselves.

This Agreement will be binding on the State, the Owner, and the Owner's successors and assigns.

[SIGNATURE PAGE TO FOLLOW]

Owner(s):

Stuart A Boylan

Stuart A. Boylan
8615 E. Lindgren Road
Spokane, WA 99217
(605) 787-4489

Date: 3-17-26

John G. Boylan

John G. Boylan
P.O. Box 58
Piedmont, SD 57769
(605) 381-4311

Date: 3-17-2026

Christina Boylan

Christina M. Boylan
P.O. Box 58
Piedmont, SD 57769
(605) 381-4311

Date: 3/18/26

State of South Dakota
Department of Transportation

By: Tanner G. Fitzke

Printed Name: TANNER G. FITZKE
Its: Chief Materials and Surfacing Engineer

Date: 04/09/2026

Approved as to Form:

/s/ Shane M. Pullman
Special Assistant Attorney General

[ACKNOWLEDGEMENTS TO FOLLOW]

OWNER'S ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF PENNINGTON)

On this the 17 day of MARCH, 2026, before me, MATTHEW J. STONE, a notary public, personally appeared Stuart A. Boylan, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Matthew J. Stone
Notary Public

(Notary Seal)

My Commission Expires: APRIL 19, 2029

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF PENNINGTON)

On this the 17 day of MARCH, 2026, before me, MATTHEW J. STONE, a notary public, personally appeared John G. Boylan, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Matthew J. Stone
Notary Public

(Notary Seal)

My Commission Expires: APRIL 19, 2029

DOT Legal: SMP

OWNER'S ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF PENNINGTON)

On this the 18 day of MARCH, 2026, before me, MATTHEW J. STONE, a notary public, personally appeared Christina M. Boylan, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Matthew J. Stone

Notary Public

(Notary Seal)

My Commission Expires: APRIL 19, 2029

STATE ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF HUGHES)

On this the 9 day of April, 2026, before me, Kari G Kroll, a notary public, personally appeared Tanner Fitzke, Chief Materials and Surfacing Engineer of the State of South Dakota, Department of Transportation, known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

[Notary Seal]

KARI G. KROLL
NOTARY
Seal
PUBLIC
STATE OF SOUTH DAKOTA

Notary Public

My Commission Expires: 02/25/31

DOT Legal: SMP

ACKNOWLEDGMENT AND CERTIFICATION REQUIRED BY EXECUTIVE ORDER 2023-13

Section 1 Definitions. The words used in this Certification shall mean:

1.1 "Contractor," any natural person or entity that is a party to a contract with a state agency, authority, bureau, board, commission, department, or institution of the State of South Dakota that is controlled by the Governor.

1.2 "State," any state agency, authority, bureau, board, commission, department or institution of the State of South Dakota that is controlled by the Governor.

1.3 "Contract," any type of agreement with the State, regardless of what the agreement may be called.

Section 2. Acknowledgment and Certification. The Contractor acknowledges and certifies that the following information is correct:

2.1 The Contractor understands Article 3, Section 12 of the South Dakota Constitution, has had the opportunity to seek independent legal advice if desired, and no Contracts between the Contractor and the State are made in contravention of the prohibition set forth in Article 3, Section 12.

2.2 It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate the Contract.

2.3 The Contractor further agrees to provide immediate written notice to the State if during the term of the Contract the Contractor no longer complies with this certification. The Contractor also agrees such noncompliance may be grounds for termination of the Contract.

Dated 3-17-24, 2024.
Contractor:

By: Stuart A Boyan

Printed Name: STUART BOYAN

Title: OWNER

ACKNOWLEDGMENT AND CERTIFICATION REQUIRED BY EXECUTIVE ORDER 2023-13

Section 1 Definitions. The words used in this Certification shall mean:

1.1 "Contractor," any natural person or entity that is a party to a contract with a state agency, authority, bureau, board, commission, department, or institution of the State of South Dakota that is controlled by the Governor.

1.2 "State," any state agency, authority, bureau, board, commission, department or institution of the State of South Dakota that is controlled by the Governor.

1.3 "Contract," any type of agreement with the State, regardless of what the agreement may be called.

Section 2. Acknowledgment and Certification. The Contractor acknowledges and certifies that the following information is correct:

2.1 The Contractor understands Article 3, Section 12 of the South Dakota Constitution, has had the opportunity to seek independent legal advice if desired, and no Contracts between the Contractor and the State are made in contravention of the prohibition set forth in Article 3, Section 12.

2.2 It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate the Contract.

2.3 The Contractor further agrees to provide immediate written notice to the State if during the term of the Contract the Contractor no longer complies with this certification. The Contractor also agrees such noncompliance may be grounds for termination of the Contract.

Dated 3-17-2026, 2026.
Contractor:

____

By: [signature]
Printed Name: John G. Boylan
Title: Owner

ACKNOWLEDGMENT AND CERTIFICATION REQUIRED BY EXECUTIVE ORDER 2023-13

Section 1 Definitions. The words used in this Certification shall mean:

1.1 "Contractor," any natural person or entity that is a party to a contract with a state agency, authority, bureau, board, commission, department, or institution of the State of South Dakota that is controlled by the Governor.

1.2 "State," any state agency, authority, bureau, board, commission, department or institution of the State of South Dakota that is controlled by the Governor.

1.3 "Contract," any type of agreement with the State, regardless of what the agreement may be called.

Section 2. Acknowledgment and Certification. The Contractor acknowledges and certifies that the following information is correct:

2.1 The Contractor understands Article 3, Section 12 of the South Dakota Constitution, has had the opportunity to seek independent legal advice if desired, and no Contracts between the Contractor and the State are made in contravention of the prohibition set forth in Article 3, Section 12.

2.2 It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate the Contract.

2.3 The Contractor further agrees to provide immediate written notice to the State if during the term of the Contract the Contractor no longer complies with this certification. The Contractor also agrees such noncompliance may be grounds for termination of the Contract.

Dated 3/18/, 2026.

Contractor:

____

By: Christina Boylan

Printed Name: CHRISTINA Boylan

Title: OWNER

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR
ON-THE-JOB TRAINING PROGRAM

MARCH 10, 2016

This Training Special Provision supersedes Part II, Nondiscrimination, Section 6, Training and Promotion, paragraph “b” on Page 2 of the Required Contract Provisions Federal-Aid Construction Contracts (FHWA 1273 – Rev. 5/1/2012).

PURPOSE

The purpose of the On-the-Job (OJT) Program is to provide training in the highway construction industry for minority, female, and economically disadvantaged individuals, hereafter known as the target group. Pursuant to 23 Code of Federal Regulations Part 230, Subpart A, Appendix B – Training Special Provisions, this program provides for on-the-job training aimed at developing full journeyworkers in the type of trade or job classification involved.

INTRODUCTION

A signature from a bidder on the proposal sheet indicates that the bidder agrees to take part in the OJT Program and to follow the OJT Program Special Provision. Contractors that fail to follow the special provision will be subject to sanctions up to and including revocation of bidding privileges.

In order for the OJT Program to be successful, contractors must follow basic and uniform procedures in training such as, keeping monthly records of trainee progress towards journeyworker status and reporting trainee’s successful completion/termination from the OJT Program.

SELECTION OF TRAINING PROGRAM

A. The minimum length and type of training for each classification will be as established in the training program selected by the Contractor and approved by the South Dakota Department of Transportation (Department or SDDOT) and the Federal Highway Administration (FHWA).

B. The Department and FHWA have currently approved one OJT program for use in South Dakota and that is the OJT program designed and implemented by the department. Any trainee who has begun training in the previously approved OJT program will be allowed to transfer to the current approved OJT program.

C. There may be other training programs which some Contractors might wish to utilize. If the Contractor intends to use such a program to meet the OJT requirements on a federal-aid contract with training requirements, approval or acceptance of such program shall be obtained from the Department and FHWA **prior** to beginning training on any classification covered by that program.

It is the intention of these provisions that training is to be provided in the construction crafts rather than administrative support type positions or lower level management positions. Training for any job classification not listed in the current OJT program manual may be permitted provided that significant and meaningful training is provided and prior approval is obtained by the Department Civil Rights Office and the FHWA Division office.

RECRUITMENT AND SELECTION PROCEDURES

A. Prerequisite for Trainees

1. To be qualified for enrollment in the OJT Program, a trainee applicant should be a member of one of the targeted groups (unless an alternate selection is authorized by the Department), must possess basic physical ability for the work to be performed, should have demonstrated qualities of dependability, willingness to learn, ability to understand and follow instructions and an aptitude to maintain a safe work environment.

2. No person shall be employed as a trainee in any classification in which that person has successfully completed a training course leading to journeyworker status or in which the individual has been employed as a journeyworker. The Contractor should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the Contractor's records should document the findings in each case.

B. Licenses

Truck driver trainees must possess appropriate driver permits or licenses for the operation of Class A, B, and C trucks. When an instructional permit is used in lieu of a license, the trainee must be accompanied by an operator who:

1. Holds a license corresponding to the vehicle being operated;

2. Has had at least one year of driving experience; and

3. Is occupying the seat next to the driver trainee.

C. Recruitment

1. Notices and posters setting forth the Contractor's Equal Employment Opportunity Policy and the availability of training programs will be placed in areas readily accessible to employees, applicants for employment and potential employees.

2. Training and upgrading of minorities, women, and socially and economically disadvantaged persons toward journeyworker status is the primary objective of this Special Provision. Accordingly, the Contractor shall make every effort to enroll minority trainees, women and disadvantaged persons by conducting systematic and direct recruitment through public and private sources likely to yield minority and female applicants to the extent that such persons are available within a reasonable area of recruitment.

3. Full consideration will be given to upgrading current minority and female employees.

D. Selection

1. The selection and employment of an eligible person by a participating Contractor, in accord with the above Parts A, B, and C, shall qualify the person of the OJT Program.

2. Employment of trainees will be in accordance with the work force requirements of the Contractor. Each Contractor will hire and train the trainees for use in his own organization.

3. Contractors must follow the registration procedures as set out for the South Dakota Department of Transportation. An original registration form must be sent to the Department Civil Rights Office for review and approval. In the event that the Department OJT Registration Form(s) are not received by the Civil Rights Office within two weeks of the date the contractor begins significant work on the project, progress payments may be suspended. This suspension will be lifted upon receipt and approval of the form(s).

4. To be acceptable as an economically disadvantaged trainee, the applicant must meet current disadvantaged guidelines (relative to employment and income) as set out by the United States Department of Labor. These guidelines are available from South Dakota Department of Labor offices and contractors must maintain the necessary documentation on file for review by the department.

5. The Department expects that Contractors will employ minority, female, and disadvantaged persons for all trainee positions assigned through this OJT Special Provision unless such persons are not available within a

reasonable area of recruitment. The Civil Rights office may withhold approval of any trainee who is not a member of one of the targeted groups unless the Contractor can demonstrate a good faith effort to recruit and select a minority, female, or economically disadvantaged person and was unsuccessful in recruiting from the target group.

DEPARTMENT RESPONSIBILITES

The Department (Civil Rights office):

A. Will monitor Contractor payrolls and OJT reports for payment of correct wage rates and for evidence of providing a continuing instructional process. The Civil Rights office will maintain records of Contractor participation in the program; names, and training classifications of trainees and other information necessary to assess program participation and results.

B. Will assist contractors with trainee recruitment, will encourage minority/female recruitment sources to refer suitable applicants, and will monitor Contractor instructional efforts and record keeping.

C. Reserves the right to do EEO (Equal Employment Opportunity) or OJT reviews on the contractor, at any time without prior notice, to ensure that trainees are getting the proper instruction from their trainer/supervisor.

CONTRACTOR RESPONSIBILITIES

The Contractor:

A. Will furnish the trainee a copy of the training program to be followed in providing the training and will provide each trainee graduate with a certificate showing the type of training satisfactorily completed.

B. Will identify all trainees on the registration forms, training reports and project payroll by proper classification title, (see SDDOT Training program booklet) e.g. *heavy duty mechanic, form builder,* etc. **Do not use** coding letters/numbers from the wage scale. On payrolls, contractors must include the designation “trainee” following the job classification title.

C. Will provide a monthly training report to the Department Civil Rights office within thirty (30) days of the last full pay period of the month on the form supplied by the Department and will use this same form to promptly notify the Department (within thirty days) whenever a trainee leaves the OJT program (voluntarily or involuntarily) or when a trainee completes the program.

D. Will pay not less than the minimum wage rates as set forth in the specific requirements of the applicable training program and as noted on the copy of the registration form returned to the contractor.

E. Assign the trainee to a skilled craftsman, foreman, supervisor or mentor who will be responsible for the day-to-day training and mentoring of the trainee and who will share the appropriate skills associated with the classification for which the trainee is enrolled. The contractor attests to providing verification, if requested, that the trainee is being trained and is gaining knowledge to achieve full journeyman status by a supervisor/trainer.

F. Shall only count, for credit; hours spent training within the classification for which the trainee is enrolled. If such classification is not necessary for a period of time or a particular project, the contractor should attempt to continue to employ the trainee by assigning him/her other duties. A percentage of hours worked on other pieces of equipment are required to be counted in the total hours worked. Approximately 25% of other duties can be counted towards graduation.

G. Shall count all hours worked in a training program regardless of whether the work was in South Dakota or outside the state. For trainees in required training slots, the contractor will only be reimbursed for eligible hours for work performed in South Dakota.

H. Will provide a program orientation to the training foreman, superintendent, and OJT trainee. This orientation shall include at a minimum, a review of individual responsibilities during the training program and copies of the training syllabus for the job classification.

I. Will instruct the trainee in safe and healthful work practices and shall ensure that the trainee is trained in facilities and other environments that are in compliance with all applicable safety and health laws and regulations of the United States and the State of South Dakota.

J. Provide the trainee a copy of the training program to be used. The contractor must also designate the employee as a “trainee” on weekly certified payrolls. The contractor is responsible for ensuring that proper training is taking place on the job by meeting with the supervisor/foreman of the project that the trainee is working.

K. In the event that a contractor may be unable to fill the required trainee slot during the current construction season, the Civil Rights Compliance Officer must be notified and contacted by December 1 of the current construction season. Proper documentation must be provided as to why the trainee position was not filled, such as project carry-over until next year.

L. Certify the trainee hours and be able to show that the trainee is receiving the proper training for their classification. Failure to do so may result in project sanction.

M. Is expected to begin training trainees on a project as soon as feasible after the start of work utilizing the job classification involved. After training has started the contractor should strive to provide monitoring efforts to retain and successfully train employees.

ADDITIONAL APPLICABLE PROVISIONS

A. The minimum number of hours of training to be provided on this project is as specified in the bid documents. The Contractor shall select whatever training classification specified in the current training program that best meet his employment needs and training hours and minimum wage shall be in accord with that classification.

B. For the purposes of bidding required trainee slots each trainee is assigned a bid quantity of 500 hours. For example if there is 1000 hours in the bidding documents, that is requiring 2 trainees. The contractor has the option to register multiple trainees to fulfill the training requirement. For example if there is a 1000 hour bid quantity, which equals 2 required trainees, the contractor could have three or more trainees registered in the program as long as there enough work for additional trainees to successfully complete the curriculum and not exceed the allowable ratio of trainees to journeyworkers (generally considered to fall between 1:10 or 1:4)

C. Please note that 500 hours for each training slot is for bidding purposes only. If a contractor does not achieve the bid quantity on a project, there is no penalty as long as a good faith effort was made to fulfill the training requirement. Also the contractor is not limited to just the bid quantity for reimbursement. If the total hours achieved on a project is higher than the bid quantity, the contractor will be reimbursed for all hours worked. For example if the bid quantity is 1000 hours and the total hours of the trainees are 1450 hours, the contractor will receive reimbursement for 1450 hours.

D. Registration and reporting requirements shall be as set forth in the program documents; printed instructions and this provision.

E. Contractors using the current training program may meet the training obligations by either 1) enrolling a new trainee in one of the classifications, or 2) using a trainee currently enrolled in one of the current training program classifications, provided that person has sufficient training hours remaining to meet the minimum project requirements as specified in bid documents. In either case, prospective trainees must meet the program requirements as set forth in “Recruitment and Selection Procedures” above.

F. The department is responsible for long term maintenance of records regarding trainee registration in various training classifications and for total trainee hours as provided by one or more contractors.

WAGE RATES

A. Minimum wage rates shall be in accord with program requirements for each classification and trainee placement within the training hours requirement. In no case shall the minimum wage be less than the common laborer classification of the applicable wage rate information contained in the bid documents. Where applicable, trainees shall be paid full fringe benefit amounts.

B. At the completion of the OJT program, the trainee shall receive the wages of a skilled journeyworker for that specific classification.

C. For the purpose of the OJT program, a quarter of the program is twenty-five percent (25%) of the training hours credited to the trainee for a particular classification and does not represent three months of the year. Other wage benchmarks are calculated in a similar manner.

BASIS OF PAYMENT

A. All program reimbursements will be made directly to the Contractor at the project conclusion. The Contractor will be paid, as reimbursement for the extra cost involved in providing the training, the amount per training hour bid for the item “Training” for each hour of training provided and reported.

B. All hours of onsite and approved offsite training provided in accordance with the approved program and this provision and as shown in trainee reports and on project payrolls will be credited as trainee hours for purpose of contract payment.

C. No payment will be made to the Contractor if either the failure to provide the required training, or the failure to hire the trainee as a journeyworker, is caused by the Contractor and evidences a lack of good faith on the part of the Contractor in meeting the requirements of this Special Provision.

D. Liquidated damages will be assessed the contractor for failure to make a good faith effort to enroll the number of trainees necessary to meet the training requirements of this Special Provision. For each trainee slot left unfilled, damages will be assessed at the rate of 100% of the bid amount for the training item times the minimum number of hours specified in the item quantity. For each trainee for whom contractor training is determined to be inadequate and which evidences a lack of good faith to fulfill the training requirements, damages will be assessed at the rate of 100% of the bid amount for the training item times the minimum number of hours specified in the item quantity.

E. Failure to furnish required documents and reports in the manner and time specified may result in forfeiture of all or a portion of the amounts due the Contractor for reimbursement for training.

****

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING
RAILROAD INSURANCE REQUIREMENTS FOR
RCP&E RAILROAD

IM-CR-EM 0901(187)44, PCN 034J, MEADE COUNTY

I-90, EXIT 46- INTERCHANGE RECONSTRUCTION
DOT# 199671B, MP 112.84

March 10, 2026

Prior to commencing any work in the vicinity of the railroad property on this project, the successful Contractor will provide and maintain in effect insurance covering all of the work and services to be performed by the Contractor and each of its subcontractors in the coverage and minimum amounts as noted below:

(1) Railroad Protective Liability: The **RCP&E and the Genesee & Wyoming Inc. will be the Named Insured** for bodily injury and property damage of $2,000,000 per occurrence and $6,000,000 in the aggregate.

(2) Workers' Compensation Insurance: As required under the South Dakota Workmen's Compensation Law.

(3) Commercial General Liability: For public liability, personal injury and property damage, as well as Contractual Liability in the amount of $2,000,000 per occurrence, with an aggregate of $6,000,000.

(4) Automobile Liability: For bodily injury and property damage of at least $1,000,000 combined single limit or the equivalent covering any and all vehicles owned or hired and used in performing services.

The RCP&E and the Genesee & Wyoming Inc. will be named additional insured for items 2, 3 and 4 above.

CERTIFICATES OF INSURANCE

The successful Contractor will issue to the following railroad Certificates of Insurance evidencing the issuance of insurance coverage as prescribed in 1, 2, 3 and 4 above; certify that the Railroad will be given not less than 30 days written notice prior to any material change, substitution or cancellation prior to normal expiration dates; and the exclusion for working on, over, or within fifty feet (50') of any railroad track will be waived on the certificates. Cancellation or expiration of any of said policies of insurance will not preclude railroad from recovery thereunder for any liability arising under this contract. Certificates of Insurance holder will be:

Rapid City, Pierre & Eastern Railroad, Inc.
c/o Genesee & Wyoming Inc.
20 West Avenue
Darien, CT 06820

The Contractor will submit the Certificates of Insurance to the Railroad at the following address:

Katie McGuier
Transaction Associate – Real Estate
Genesee & Wyoming Railroad Services, Inc.
13901 Sutton Park Dr., S., Suite 270
Jacksonville, FL 32224

Any questions or clarifications of Railroad's insurance requirements may be directed to Katie McGuier, at telephone number 904-900-6276, e-mail katie.mcguier@gwrr.com or to Cassidy Schnabel with the DOT at 605-773-5230, e-mail cassidy.schnabel@state.sd.us.

Additional insurance information can be found on the railroad's web site using the following link:

https://www.gwrr.com/real_estate/insurance_requirements

The Contractor will also send a copy of all certificates and insurances to **Mike Carlson, Rapid Area Engineer, South Dakota Department of Transportation, PO Box 1970, Rapid City, SD 57709-1970, or email mike.carlson@state.sd.us.**

The successful Contractor will not be granted permission to proceed with any work on, over, or near railroad property (at a minimum of 50 feet from centerline of any track) until the Contractor has been notified by the Railroad that the required insurances have been approved and documentation of approval has been provided to the Area Engineer.

All costs associated with these insurance requirements, including increasing policy limits, when required, will be incidental to the bid item RAILROAD PROTECTIVE INSURANCE.

It is mutually understood and agreed that the purchase of insurance will not in any way limit the liability of the Contractor to the Railroad.

Failure to obtain the required insurances and approvals prior to working on, over, or near Railroad property will result in suspension of all work until required insurances are obtained and approved.

# # # # # # #

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING WORKING ON RAILROAD PROPERTY AND ASSOCIATED CONTRACTOR PERMITS NEEDED FOR
RCP&E RAILROAD

IM-CR-EM 0901(187)44, PCN 034J, MEADE COUNTY

I-90, EXIT 46- INTERCHANGE RECONSTRUCTION
DOT# 199671B, MP 112.84

March 10, 2026

---

(1) REQUIREMENTS OF THE CONTRACTOR IN RELATION TO THE PROTECTION OF THE RAILROAD PROPERTY AND OPERATIONS FROM HAZARD DUE TO CONSTRUCTION OPERATIONS.

The Contractor is to contact Jeff Blachford, AVP Western Region Engineering, Genesee & Wyoming Railroad, cell phone # 605-430-3284 at least five working days in advance whenever it is to enter the Railroad property. However, a **thirty-day** notice is required before beginning of project to coordinate work. Manager may designate others to represent the Railroad.

Construction activity that is within 25 feet laterally of center of any track and/or at any distance vertically from top of rail of said track within 50 feet laterally of center of track will require flagging and/or a protective train order, issued by the Railroad, for each train passing through or affected by said construction. **The Contractor's work schedule will be coordinated with the State's and Railroad's Representative prior to notifying the Railroad of required flagging dates.**

Contractor will not be within 25 feet laterally and/or at any distance vertically of center of track when trains are present. Contractor's work or activity will not interfere with or endanger Railroad operations or cause damage to Railroad property.

Railroad flag protection may be required at any time the Railroad Representative believes that it is necessary to safeguard Railroad's operations and property.

The Railroad is to submit the billing for protective train orders and/or flagging directly to the **Cassidy Schnabel, Highway-Rail Safety Engineer, cassidy.schanbel@state.sd.us .** Flagging will be paid for by the SD DOT Department.

The Contractor is to Indemnify and Hold Harmless the Railroad for any personal injuries or property damage arising out of this project to the extent as applicable by law.

(2) REQUIREMENTS FOR CONTRACTOR WORKING ON RAILROAD PROPERTY.

a. Absolutely no piling of construction materials or any other material, including dirt, sand, etc within 25 feet of center of track or on property of the Railroad not covered by Construction Easement or Contractor's Permit/Lease.

b. No construction will be allowed within 25 feet of center of any track unless authorized by the Railroad Representative and shown on Plan approved by the Railroad. This includes any excavation, bore pits, slope encroachment and driving of sheet piles.

c. No change will be made to "Construction Plans" without approval by all parties involved. Approved revised plan will be furnished to all parties prior to implementation of changes.

d. No vehicles or machines will remain unattended within 25 feet from center of track.

e. Crossing of any Railroad track must be done at approved locations and must be full depth timbers, rubber, etc. Any equipment with steel wheels, lugs, or tracks must not cross steel rails without aid of rubber tires or other approved protection. Hauling across public crossings will be within legal load limits.

f. All temporary construction crossings must be covered by a "Private Roadway & Crossing Agreement" and will be paid for by the Contractor. All temporary crossings must be barricaded when not in use. Crossing installation is to be coordinated with Railroad. Requests for temporary construction crossings are to be directed to the **Railroad at 605-430-3284.**

g. Contractor will incur all costs for any track work made necessary due to his construction operations, including but not limited to costs for temporary construction crossings and/or repair of damaged track or any and all crossings.

h. Flagging protection may be required when equipment crosses, or Contractor is working within 25 feet from center of track and/or at any distance vertically from top of rail of said track within 50 feet laterally of the center of track. Flagging is a Federal requirement per 49CFR214.

i. Contractor must furnish details on how he will perform work that will affect existing drainage and/or possible fouling of track ballast as well as **removal of overhead bridges/structure**.

j. Contractor's approved insurance must be in effect prior to entry onto Railroad property and during entire project.

k. All permits, and Agreements must be in effect, payments made, and insurance policies received prior to entering Railroad property.

l. Important - Disregard of any of these items will result in Contractor being shut down for a minimum of 48 hours on Railroad property while infraction is investigated. Based on the findings of the investigation, it will be determined if the Contractor will be allowed to work on Railroad property in the future.

m. Railroad may use a 3rd party vendor for some projects. The flagging may be paid through the project or directly by the Contractor. If paid directly, the following should be kept in mind:

1. Contractor shall execute the flagging agreement with vendor.
2. Flagging must be requested 1 or 2 weeks ahead work.
3. Previously scheduled flagging must be cancelled 24 hours in advance, or a full day will be charged.
4. Only full 8-hour days of flagging will be scheduled; partial days will not be considered.

(3) RIGHT OF ENTRY FOR THE CONTRACTOR ON RAILROAD PROPERTY

Right of Entry will not be granted by either the Railroad Representative or State until the Contractor has completed the following:

a. Contractor has provided the Railroad Protective Liability Insurance Policy to the Railroad and furnished a certificate of said insurance to the State and Contractor has been notified by the Railroad that said insurance is approved by the Railroad.

b. Contractor has furnished a certificate of insurance for Commercial General Liability, Worker's Compensation Insurance, and Automobile Liability to the Railroad and State.

c. Contractor has acquired the Right of Entry License Agreement between the Contractor and the Railroad. The State will submit the Right of Entry application on behalf of the Contractor prior to bid opening. The Railroad will grant the State conditional approval to begin advertising for bids and provide the State with the permit forms, which the state will include within the contract award documents. The Contractor shall complete and submit the permit forms to the Railroad for execution. The Contractor will be responsible for the permit fee, which will be $1,750. The contractor is authorized to include in the bid an amount necessary to cover the permit fee applicable to this project. The executed agreement will be returned to the Contractor. The Contractor must adhere and comply with the terms and conditions of the Right of Entry Agreement and carry a copy of the agreement at all times while on the railroads' property.

d. Contractor has completed satisfactory arrangements with Railroad Representative for progress of work without danger to train operations, without unnecessary interruption to train movements and for flagging protection as necessary.

# # # # # # # # # # # # # #

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
CONTRACTOR STAKING
WITH MACHINE CONTROL GRADING OPTION

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

MARCH 30, 2026

Delete Section 5.8 of the specifications and insert the following:

SECTION 5.8
CONSTRUCTION STAKES, LINES AND GRADES
CONTRACTOR GRADE STAKING

A. DESCRIPTION

The Contractor will perform all construction staking. The Contractor may elect to use grading equipment with an automated machine control system for Machine Control Grading (MCG) provided the equipment and methods used provide the same results in the finished work as conventional construction staking. The Engineer may require the Contractor to revert to conventional staking methods for all or part of the work at any point during construction if, in the Engineer's own opinion, the MCG produces unacceptable results.

The Contractor may use MCG as a substitute for conventional construction staking for grade staking only but will not use MCG for slope staking and slope stake reference hubs, paving hub staking, structure staking, miscellaneous staking, or final cross section surveying.

The staking work includes, but is not limited to, establishing or re-establishing the project centerline; establishing control points and benchmarks as needed; setting additional benchmarks as needed; perform measurement and volume calculations of all Contractor secured borrow sources, State designated borrow sources, and topsoil stockpiles; perform measurement and volume calculations for earthwork quantities; and staking right-of-way, easements, and fence. The Contractor will perform measurement and volume computations by the average end area method at the slope stake stations and plus stations, surface-to-surface method, or alternate measurement and computation method approved by the Engineer.

The Contractor will perform all construction layout and reference staking necessary for the accurate control and completion of all structures, grading, paving, drainage, median crossovers, signing, pavement marking, permanent benchmarks, detours, fence, and all other appurtenances required for the complete construction and acceptance of the work. The layout will include, but is not limited to, staking easement lines, staking clearing line, slope staking and slope stake reference hubs, grade staking (blue tops), paving hub staking, structure staking, and performing the miscellaneous staking as described in the plans and in this specification.

The Department has established horizontal and vertical control as shown on the plans. Each horizontal and vertical control point will be preserved or reset out of the work limits and available during and after construction is complete. Prior to the Department's final acceptance of the project, the Contractor will replace or reset any control that is disturbed during the construction of the project. The Contractor will provide the Department a list of the in-place control points, including coordinates and elevations relevant to the project control, at the end of the project.

The Department will provide a MCG packet to all prospective bidders consisting of a XML file containing the original surface Digital Terrain Model (DTM) and 4 design files for each new alignment on the project. The electronic design files will include, a XML file containing mainline alignment data, a XML file containing mainline design surface DTM, a DGN file containing triangles for mainline surface, and a DWG file containing triangles for mainline surface. The MCG packet will be available on the Department's electronic bid letting website when the project is advertised for bid letting.

The Contractor will convert the electronic information provided by the Department into the format required by the Contractor's MCG system. The Department makes no guarantee the information provided is directly compatible with the Contractor's MCG system.

The information shown in the plans will govern over the provided electronic information. The Contractor assumes the risk of error if the information is used for any purpose for which the information was not intended. The Contractor assumes all risk of any assumptions made regarding the electronic information.

The Contractor bears all costs, including but not limited to the cost of actual reconstruction of work, that may be incurred due to errors in application of MCG techniques. Grade elevation errors, rework resulting from errors or failures of the MCG system, and associated quantity adjustments resulting from the Contractor's activities are at no cost to the Department. Delays due to late submittals or satellite reception of signals to operate the MCG system will not result in adjustment to any contract unit prices or be justification for granting contract extensions.

The electronic information is not to be considered a representation of actual conditions to be encountered during construction. Providing the Contractor this information does not relieve the Contractor from the responsibility of making an investigation of conditions to be encountered, including but not limited to, site visits and basing the bid on information obtained from these investigations and the Contractor's professional interpretations and judgment. The Contractor assumes the risk of error if the information is used for any purposes for which the information was not intended. Any assumptions the Contractor makes from this electronic information or manipulation of the electronic information is at the Contractor's own risk.

The Contractor will perform the staking work in accordance with the Department's Survey Manual, except as modified by this specification.

If the Contractor elects to use MCG, the Contractor will submit a comprehensive written MCG work plan to the Engineer for review prior to scheduling the preconstruction meeting. The Department will review the plan to determine if the plan conforms to the requirements of the contract.

The Contractor will include in the MCG work plan how MCG will be incorporated into other technologies used on the project. The Contractor's MCG work plan will include, but is not limited to, the following:

1. A designation of which portions of the subgrade will be completed using MCG and which portions, if any, will be completed using conventional subgrade staking methods.
2. A description of the manufacturer, model, and software version of all MCG equipment.
3. Information on the qualifications of the Contractor's staff including, but not limited to, formal training and field experience.
4. A designation of a single person as the primary contact for MCG technology issues.
5. A description of site calibration procedures.
6. A description of site calibration and checking frequency and procedures for documenting site calibration and checking.
7. A description of the Contractor's quality control procedures including procedures for checking, mechanical calibration, and maintenance of equipment.
8. A description of the frequency and types of checks the Contractor will perform to ensure the constructed subgrade conforms to the contract requirements.

B. MATERIALS

The Contractor will furnish all staking materials of adequate quality for the purpose intended including all stakes, stake chasers, paint, field note books, and all other materials and equipment necessary to perform the required work.

C. CONSTRUCTION REQUIREMENTS

1. **General:** The Department will set control points. The Contractor is responsible for the preservation of ties and references to all control points necessary for the accurate re-establishment of all base lines and centerlines shown in the plans, whether established by the Contractor or found on or adjacent to the project. The Department will also establish benchmark elevations. It is the responsibility of the Contractor to verify the accuracy of the benchmark elevations prior to use on the project.

   The Engineer may check the accuracy and control of the Contractor's survey, staking work, and MCG at any time. The checks performed by the Engineer will not relieve the Contractor of the responsibility for the accuracy of the survey layout or the construction work. If the random checks show the grade is out of tolerance, the Engineer may require the Contractor to set additional stakes at the discretion of the Engineer, at no additional cost to the Department. If the Engineer orders additional stakes, the Contractor will perform the additional staking until the Contractor can show the staking operations achieve the specified grade tolerances.

   Prior to any project staking, the Contractor will run a level circuit to check the plan benchmarks the full length of the project. At structure sites, the circuit will include two benchmarks, one on each end of the structure.

   The Contractor will perform all staking and MCG work under the supervision of a qualified surveyor or engineer who is experienced and competent in road and bridge construction surveying, staking, and MCG procedures. The surveyor or engineer will be available to review work, resolve problems, and make decisions in a timely manner. A crew chief, competent to perform all required surveying duties, will supervise the staking in the absence of the surveyor or engineer from the project. The Contractor will submit the qualifications and work experience history of the surveyor or engineer who will supervise the construction survey and MCG work to the Engineer for review at least 14 calendar days prior to beginning the staking or MCG work.

   a. **Conventional Construction Staking:** The Contractor will also submit the proposed starting date of the staking and the anticipated surveying work schedule.

The Contractor will furnish, set, and properly reference all stakes, references, lines, grades, and batter boards required. Minimum reference notations will be for type, location, and alignment (when there are multiple alignments in the same area). The Contractor will perform the survey and staking work in a manner consistent with standard engineering practices and approved by the Engineer.

The Contractor is solely responsible for the accuracy of the survey and staking work. The Contractor will notify the Engineer of any errors and discrepancies found in previous surveys, plans, specifications, or special provisions prior to proceeding with the survey work.

The Contractor will be responsible for the supervision of the construction staking personnel. The Contractor will correct any deficient survey or staking work that results in construction errors at no additional cost to the Department.

The Contractor will keep field notes in conventional handwritten notebooks or in a computerized form acceptable to the Engineer in a clear, orderly, and neat manner. The notebooks will become the property of the Department upon completion of the project. The notebooks will provide enough information such that quantity measurements are verifiable by the Department. Field notes are subject to inspection by the Engineer at any time.

The Contractor is required to submit any remaining required quantity calculations and notes to the Engineer no later than 60 calendar days after completion of the survey and staking work.

The Contractor will furnish stakes and wooden hubs or steel pins of sufficient length to provide a solid set in the ground. The Contractor will place half-length lath stakes or stake chasers or an alternate, acceptable to the Engineer, adjacent to or on the blue top hubs for guards. The Contractor will place guard stakes or an alternate, acceptable to the Engineer, adjacent to the paving hub with stationing and a grade to the top of slab written on the stake. Stakes set not meeting these requirements will be reset at the Contractors expense. The Contractor will replace stakes and paving hubs damaged, destroyed, illegible, or made unusable at no additional expense to the Department.

b. **Machine Control Grading:** If the Contractor elects to use MCG as a substitute for conventional staking for grade staking, the Contractor will confirm the design surface DTM agrees with the contract plans, make adjustments to the design surface DTM as approved by the Engineer, and will maintain the design surface DTM for all areas of the project where MCG is used. The Contractor will also provide constructed surface DTM information to the Department in LandXML or other Engineer approved format.

The Contractor will notify the Department of any errors or discrepancies in Department provided information. The Department will determine what revisions may be required. The Department will revise the contract plans, if necessary, to address errors or discrepancies the Contractor identifies. The Department will provide the best available information related to those contract plan revisions.

The Contractor will revise the design surface DTM as required to support construction operations and to reflect any contract plan revisions the Department makes. The Contractor will perform checks to confirm the revised design surface DTM agrees with the contract plan revisions. The Contractor will provide a copy of the resultant revised design surface DTM to the Engineer in LandXML. The Department will pay for costs incurred to incorporate contract plan revisions as extra work.

The Contractor will designate a set of control points, including a total of at least 6 horizontal and vertical points or 2 per mile, whichever is greater, for site calibration for the portion of the project employing MCG. The Contractor will incorporate the Department provided control framework used for the original survey and design.

The Contractor will calibrate the site by determining the parameters governing the transformation of satellite information into the project coordinate system. The Contractor will use the control points provided by the Department for the initial site calibration. The Contractor will provide the resulting site calibration file to the Engineer before beginning subgrade construction.

In addition to the site calibration, the Contractor will perform site calibration checks at individual control points not used in the initial site calibration. At a minimum, the Contractor will check the calibration at the start of each day as described in the contractor's MCG work plan. The Contractor will report out-of-tolerance checks to the Engineer. The measured position must match the established position at each individual control point within the horizontal tolerance of ±0.1 foot and the vertical tolerance of ±0.05 foot.

The Contractor will construct the subgrade as the Contractor’s MCG work plan indicates and in accordance with the contract requirements. The Contractor will update the plan as necessary during construction of the subgrade. The Contractor will perform periodic sensor calibrations, checks for blade wear, and other routine adjustments as required to ensure the final subgrade conforms to the contract requirements.

The Department may use Department supplied GPS rover and data collector (GPS inspection equipment) to aid in the inspection of the work. The Department supplied GPS inspection equipment will require a connection to the Contractor's Machine Control Grading (MCG) system, through the Contractor's base station, used for MCG equipment.

The Contractor will configure the radio settings of the base station to allow the Department's rover to receive corrections directly from the Contractor's base station. The radio settings must be configured properly to ensure continuous communication across multiple brands of GPS equipment. The radio settings will be as follows:

• Frequency:	461.050 to 464.750 MHz
• Narrow Bandwidth:	12.5 kHz
• Protocol:	PDL or PDL Tx
• Modulation:	4fSK
• Forward Error Correction (FEC):	On
• Scrambler:	Off
• Free Channel Scan (FCS):	On

The connection of the Department's GPS inspection equipment will allow the Engineer the ability to positively and efficiently determine plan station, offset, and elevations in all MCG sections.

The Department will not make payment for the ability to connect or the connection to the Contractor's MCG system.

2. **Slope Staking:** The Contractor will set slope stakes at the catch points. The slope stake reference hubs will be offset behind the slope stake. The Contractor will place slope stake reference hubs behind the slope stakes at the right-of-way line, easement line, or other locations as approved by the Engineer.

   The slope stakes will be set at 200-foot intervals on tangents and at 50-foot intervals in horizontal curves. The horizontal tolerance is ±0.2 foot and the vertical tolerance is ±0.1 foot. The Contractor will reference the subgrade shoulders with slope stake reference hubs set with a horizontal tolerance of ±0.2 foot and a vertical tolerance of ±0.05 foot.

   The Contractor will retain the slope stakes and hub references until the final survey computations are completed and accepted by the Department.

   Contractor will set slope stakes based on the information included in the MCG files provided by the Department.

3. **Grade Staking:** In accordance with the requirements of this provision, the Contractor may elect to use MCG equipment or may use conventional construction staking methods for all or part of the grade staking work, excluding paving hub staking.

   a. **Conventional Blue Tops:** The Contractor will set grade finishing stakes (blue tops) for grade elevations and horizontal alignment on the roadway centerline and at each shoulder at the top of the subgrade. Where additional lanes or turnouts are to be constructed, The Contractor will set blue tops at centerline, the normal shoulder distance, and the extended shoulder distance or outside the additional lane edge.

      The transverse distance between blue tops will not exceed 20 feet. The Contractor will be required to set intermediate blue tops when the transverse distance is greater than 20 feet. When intermediate blue tops are required, The Contractor will set the intermediate blue tops at locations approved by the Engineer.

      The blue top grade stakes will be set at 100-foot intervals on tangents and 50-foot intervals on horizontal curves. The horizontal tolerance for blue tops is ±0.2 foot and the vertical tolerance is ±0.02 foot.

      Contractor will set grade stakes based on the information included in the MCG files provided by the Department.

      The Contractor will retain the shoulder blue tops and guards through placement of the granular material.

   b. **Machine Control Grading:** The Contractor will set conventional construction staking grade finishing stakes (blue tops) for grade elevations and horizontal alignment on the roadway centerline and at each shoulder at the top of the subgrade (and gravel cushion for PCC paving projects) at a minimum of 500 foot intervals on mainline and slide repairs or at least one location for sections less than 500 foot long; at least two locations on side roads, side streets, and ramps; and at least one location within 100 feet of each bridge end. In addition, the Contractor will set blue tops for grade elevations and horizontal alignment on the roadway centerline and at each shoulder at the top of the subgrade (and gravel cushion for PCC paving projects) at critical transition points including, but not limited to, PC's, PT's, super elevations transition points, and other critical points required for the construction of drainage and roadway structures. The Contractor will also provide conventional construction staking grade finishing stakes (blue tops) at additional locations designated by the Engineer.

      The Contractor will establish these grade staking (blue top) grades using the information included in the MCG files provided by the Department, plan typical sections, and cross sections. The Contractor will use these stakes to check the accuracy of the MCG during construction. The Contractor will notify the Engineer at least 3 calendar days before making subgrade checks to allow the Engineer to observe the process.

The Contractor will ensure at least four of any five consecutive conventional construction staking grade finishing stakes (blue tops) locations are within the horizontal and vertical tolerances specified in Section 120.3. The Contractor will notify the Engineer if more than one of any five consecutive conventional construction staking grade finishing stakes (blue tops) locations is not within the horizontal or vertical tolerance.

The Department may conduct periodic independent subgrade checks. The Department will notify the Contractor if any individual check is not within the horizontal or vertical tolerance.

c. **Paving Hub Staking:** When paving hub staking is required, the Contractor will set paving hubs at a maximum longitudinal distance of double the transverse joint spacing. The paving contractor may require a closer spacing. The horizontal and vertical tolerance for the paving hubs or grade nails is ± 0.02'.

The Department will not provide paving hub notes. The Contractor is responsible for generating the paving hub grades from the blue top notes.

4. **Structure Staking:** The Contractor will stake and reference bridges and box culverts to ensure adequate horizontal and vertical control of the substructure and superstructure components. The Contractor will stake and reference the bridge chord or the bridge tangent and centerline of each pier, bent, and abutments for bridges. The Contractor will stake the box culvert centerline(s) in both longitudinal and transverse directions.

When the work requires bridge rehabilitation work, the structure staking will include all surveying and staking required for completion of the project. The staking work may include, but not be limited to, setting the rail for the deck overlay. The plans will indicate the grade line for the deck overlay; and if necessary, the Engineer may modify the grade line.

When staking retaining walls (except Type C), the Contractor will survey and record the original ground profile along the front face of the proposed wall at the elevation break points. The Contractor will supply the wall designer the original ground profile data prior to the wall designer performing the design. Set adequate stakes and references for horizontal and vertical control during construction.

For structures and retaining walls, the horizontal tolerance is ±0.04 foot and vertical tolerance is ±0.02 foot.

The Contractor is responsible for all notes required to stake structures including bridges, box culverts, and walls.

5. **Miscellaneous Staking:** Miscellaneous staking includes the following work:

   a. Easement line for items including, but not limited to, setting temporary fence, utility relocation, and landowner reference and property use;
   b. Clearing line for items identified by the clearing contract unit item when provided in the plans;
   c. Approach road staking and all tie-in checks. The Contractor will submit profiles and elevations of all approach roads and other tie-ins throughout the project to the Engineer at least 3 business days prior to staking;
   d. Perform measurement and computation of topsoil quantities. The Contractor will perform volume computations by the average end area method, surface-to-surface method, or alternate computation method approved by the Engineer;
   e. Special ditch staking;
   f. Staking of signs, delineators, pavement markings, guardrail, curb & gutter, light poles, conduit, junction boxes, and related items (Staking is for all aspects, i.e. detours, temporary and permanent);
   g. Right-of-way staking including fence post panels;
   h. Pipe and storm sewer staking including drop inlets, manholes, cattle passes, and related items. If additional pipe, storm sewer, drop inlets, manholes, or cattle passes are required which are not shown on the plans, the staking will be paid in accordance with the bid item Engineer Directed Surveying/Staking;
   i. Mark limits of removal items (trees, foundations, curb & gutter, sidewalk, etc.);
   j. Detours, roadway diversions, and crossovers. (This work includes all design and staking notes required to design and stake the detour, roadway diversion, or crossover in accordance with the plan requirements. The Contractor will submit the completed design including profile and alignment and staking notes to the Engineer at least 3 business days prior to staking.);
   k. Perform measurement and computation of quantities of Contractor and State furnished borrow pits. The Contractor will perform volume computations by the average end area method, surface-to-surface method, or alternate computation method approved by the Engineer;
   l. Resetting horizontal and vertical control, if disturbed;
   m. Approach slab and sleeper slab staking;
   n. Staking of sidewalks and curb ramps; and,
   o. Staking of steps and wheel chair ramps.

The Contractor will perform the pipe staking so the pipe will fit the field conditions. The plans show only approximate pipe locations and grades. The Contractor will not install pipe prior to gaining the Engineer's approval of minor location and grade adjustments necessary for proper staking of the pipe.

The Contractor will stake the slope catch points to determine the inlet and outlet locations, set reference stakes for the inlet and outlet locations, and stake ditches and special inlet and outlet grades to ensure proper drainage. The staking of manholes and drop inlets will be included in pipe and storm sewer staking. The Contractor will stake precast cattle passes similar to drainage pipes.

The horizontal tolerance for the pipe and storm sewer staking is $\pm$0.05 foot and the vertical tolerance is $\pm$0.03 foot.

The Contractor will keep pipe staking notes on a DOT Form 214.

6. **Engineer Directed Surveying/Staking:** The use of the engineer directed surveying/staking contract item is intended for surveying/staking not included in the plan notes and this special provision. The Contractor may use a survey crew to perform additional survey/staking work caused or required by the Department. The Engineer will use a written order to authorize the hourly engineer directed surveying/staking item and describe the surveying/staking work required of the Contractor.

7. **Final Cross Section Survey:** When the contract allows an option for the measurement of final earthwork quantities by survey or by plan quantities, the Contractor and Engineer must agree to the method of measurement for final earthwork quantities prior to using this item. If this item is not used for the final measurement, the Department will remove this item by a contract change order. If the Contractor and Engineer agree to use this item for measurement of final earthwork quantities, the resulting quantities will be used for payment of the excavation quantities.

   Final Cross Section Survey includes final earthwork (or terrain data) measurement and calculation of as-built quantities. The Contractor will include the blue top subgrade elevations, both shoulders, and centerline in the final earthwork (or terrain data). The Contractor will perform earthwork computations by the average end area method at the same intervals, stations, and plus stations as the slope stakes, surface-to-surface method, or alternate computation method approved by the Engineer.

D. METHOD OF MEASUREMENT

Refer to the Table of Contractor Staking in the plans for more detail on how quantities were calculated.

1. **Slope Staking:** The Department will not measure slope staking. The Department will pay the plan quantity as the final quantity unless the Engineer orders additional slope staking in writing.

   The Department will consider all combinations of roadway widths as one set of slope stakes. On projects with ramps, the Department will consider ramps as roadway and include the ramps in the slope staking quantity. All additional slope staking for intersections will be incidental to the contract unit price for slope staking.

2. **Grade Staking:** The Department will not measure grade staking. The Department will pay the plan quantity as the final quantity unless the Engineer orders additional grade staking in writing. The Department will make no adjustment to the plan quantity of grade staking regardless if the Contractor elects to use MCG on all or part of the project.

   The Department will consider a two-lane roadway as one set of grade stakes. The Department will proportionately increase the plan quantity for multi-lane roadways in excess to two-lanes as shown in the table of construction staking (lane factor). For example, a three-lane roadway is equivalent to 1.5 times the quantity for a two-lane roadway. On projects requiring grade staking on ramps, the Department will consider ramps as a two-lane roadway for measurement as shown in the table of construction staking. The Department will not consider Acceleration/deceleration lanes and turning lanes for intersecting roads, and median crossovers as an additional roadway. All cost for additional grade staking for acceleration/deceleration lanes, turning lanes, intersecting roads, grade adjustments, and median crossovers will be incidental to the contract unit price for grade staking. All additional grade staking for intersections and medians will be incidental to the roadway grade staking. Any additional staking the Contractor feels necessary to complete the grade staking work is the responsibility of the contractor and will be incidental to the contract unit price for grade staking.

   When both blue top and paving hub stakes are required, the Department will base and calculate the plan quantity to include each type of grade staking as a separate set of stakes.

3. **Structure Staking:** The Department will measure structure staking by the each for bridges, box culverts, and retaining walls.

4. **Miscellaneous Staking:** The Department will not measure miscellaneous staking. The Department will pay the plan quantity as the final quantity.

5. **Engineer Directed Surveying/Staking:** The Department will measure engineer directed surveying/staking to the nearest 0.1 hour with the following restrictions:

   The use of engineer directed surveying/staking will be for the work ordered by the Engineer. The measured quantity will be the actual time the survey crew is working on the project, physically performing the field survey/staking work and office time dedicated to the work specific to engineer directed surveying/staking. The Department will not include travel time for the survey crew in the measurement.

   The Contractor will provide the Engineer documentation, such as an invoice, showing the actual days/hours worked.

6. **Final Cross Section Survey:** The Department will measure final cross section survey to the nearest 0.001 mile for the plan earthwork balances requiring a final survey to determine as-built unclassified excavation quantities. The Engineer will determine which balances (if any) require a final survey during construction. The plan quantity will be the length of the project mainline. This item will be decreased if the Contractor and Engineer agree to accept the plan excavation quantity prior to performing the work for any or all earthwork balances.

E. BASIS OF PAYMENT

Payment for all survey items will be considered full compensation for furnishing all necessary personnel, vehicles, surveying equipment, software, supplies, materials, recording fees, transportation, and incidentals to accurately and satisfactory complete the work.

The Department reserves the right to omit any of these bid items without providing compensation to the contractor if the Department deems the bid prices are unreasonable.

1. **Slope Staking:** The Department will pay slope staking at the contract unit price per mile.

2. **Grade Staking:** The Department will pay grade staking at the contract unit price per mile.

3. **Structure Staking:** The Department will pay structure staking at the contract unit price per each.

4. **Miscellaneous Staking:** The Department will pay miscellaneous staking at the contract unit price per mile.

The Department will make partial payment as follows:

a. Upon submission of the name, experience, and qualifications of the surveyor or engineer who will supervise the staking, the proposed starting date, and the staking schedule, the Department will pay the Contractor 25 percent of the plan quantity for the miscellaneous staking.

b. The Department will make intermediate payments based on the amount of the staking work completed.

c. The Department will make full payment at the plan quantity for miscellaneous staking upon completion of all surveying and staking and when the Contractor has furnished all field notebooks and records to the Engineer.

The Department will not adjust the contract unit price or plan quantity for miscellaneous staking due to overruns or under runs in the other contract items.

5. **Engineer Directed Surveying/Staking:** The Department will pay engineer directed surveying/staking on an hourly basis as per the Price Schedule for Miscellaneous Items. The value listed in the Price Schedule for Miscellaneous Items includes salaries, travel time, equipment, staking supplies, payroll additive, and all incidental expenses related to providing the survey crew.

6. **Final Cross Section Survey:** The Department will pay final cross section survey at the contract unit price per mile.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
PI PCC PAVEMENT SMOOTHNESS
WITH 0.2” BLANKING BAND

JULY 7, 2025

At locations designated in the plans, the Contractor will determine the PCC pavement smoothness by profile testing the finished surfaces of the PCC pavement in accordance with the following requirements.

A. Exclusions: Excluded from profile testing are:

1. Shoulders;

2. Lanes less than 10 feet in width;

3. The first or last 50 feet of a pavement where the Contractor is not responsible for the adjoining in place pavement; and,

4. Pavements on horizontal curves with centerline radius of curvature of less than 600 feet and pavements within the super-elevated transitions of such curves.

At locations designated in the plans to be profiled but excluded from profile testing, the Engineer will determine the pavement smoothness according to the 10-foot straightedge test requirements in Section 380.3 O.1 of the specifications.

B. Equipment and Calibration: Equipment and calibration will conform to Section 380.3 B.8 of the specifications except for the following exception:

The Contractor will supply and use a California type profilograph or profiler capable of measuring and analyzing PRI. The computer will smooth the profile using only a third-order Butterworth filter with a cutoff wavelength of 2.0 feet. The computer will generate a profile index using a 0.2 inch blanking band and will use a 0.3 inch bump threshold to identify "must grind" locations.

C. Operation: The Contractor will operate the profilograph/profiler at a speed no greater than a normal walk. Make two passes in each driving lane, one in each approximate wheel path. Label each trace to show the project, stationing, lane, wheel path, date paved, date ground (if applicable), date tested, date or re-profiling testing (if applicable), and the name of the operator.

The Contractor will not run the profile test prior to the next working day following concrete placement. Segments less than 1000 linear feet may be grouped with the subsequent day's production. The Contractor will furnish results to the Engineer within 2 business days after concrete placement and furnish re-profiling test results within 2 business days after corrective grinding is completed.

The Contractor will repair or replace curing membrane damaged or protective cover removed during profile testing operations as directed by the Engineer at no cost to the Department.

D. Evaluation: The Contract will furnish the Department with the profilogram and the profilogram will become the property of the Department. The Department will evaluate the profilogram. Evaluation will consist of determining the profile index (PI) to the nearest 0.05 inch per mile by measuring and summing scallops appearing outside a 0.2 inch blanking band. The PI will be determined from the average of the two wheel paths in each driving lane. Individual bumps will be evaluated using a 0.3 inch bump template. PIs will be rounded to the nearest 0.1 inch.

The Department will spot check or retest areas the Department desires with the Department owned and operated profilograph or profiler. If a discrepancy between the two traces occurs, the Department and Contractor will determine the cause of the discrepancy and the area will be retested if necessary, as determined by the Engineer.

E. Requirements: Pavements will not exceed a PI of 10.0 inches per mile.

1. Pavements with a PI from 10.1 to 20.0 inches per mile in any 0.1 mile section will be subject to one of the following at the discretion of the Contractor.

a. Satisfactorily correct the deficient area by corrective grinding to a PI of 10.0 or less. The Contractor will accomplish corrective grinding with specially prepared circular diamond blades mounted on a horizontal shaft. The Contractor will day light corrective grinding to the outside edge of the pavement. The Contractor will repair and replace joint sealant damaged by corrective grinding as directed by the Engineer and at no additional cost to the Department. The Contractor will not leave ground areas smooth or polished. The Contractor will ensure ground areas have a uniform texture equal in roughness to the surrounding unground concrete. When limestone is used as the course aggregate in the pavement and the current ADT shown on the plans is greater than 1500, the Contractor will reestablish the tining with a mechanical tining machine in all areas where the corrective grinding exceeds 50 feet measured longitudinally along the centerline of the road. The Contractor will remove and replace all joint sealant within the area where tining is replaced.

The Contractor shall establish a positive means for the removal of grinding residue. Solid residue shall be removed from the pavement surfaces before being blown by traffic action or wind. The Contractor shall conduct this work to control and minimize airborne dust and similar debris that may become a hazard to motor vehicle operation or a nuisance to property owners. Residue from wet grinding shall not be permitted to flow across traffic lanes being used by public traffic or into gutter or drainage facilities. Residue, whether in solid or slurry form, shall be disposed of in a manner that will prevent it from reaching any waterway in a concentrated state.

The Contractor will replace all permanent pavement markings damaged, destroyed, or removed during corrective grinding at no additional cost to the Department. Following the completion of corrective grinding, the Contractor will re-profile test the deficient area.

b. Accept the deficient area with a price reduction as per the table located in section F of this special provision.

If the Contractor elects to correct the deficient area by corrective grinding, the Department will use the resulting PI after corrective grinding for payment calculations in accordance with the incentive and disincentive payment table in this special provision except the sections corrective ground to a PI less than 10.0 inches per mile (159 mm/km) will not earn more than 100.0% payment.

2. Pavements with a PI exceeding 20.0 inches per mile in any 0.1 mile section will be subject to one of the following at the discretion of the Engineer.

a. Satisfactorily correct the deficient area by corrective grinding as specified in section E.1.a of this special provision.

b. Remove and replace deficient areas.

If the Engineer requires the Contractor to correct the deficient area by corrective grinding, the Contractor will correct the deficient area by corrective grinding to a PI of 20.0 or less. Once the PI is 20.0 or less, any subsequent corrective grinding will be done at the discretion of the Contractor in accordance with section E.1 of this special provision. The Department will use the resulting PI after corrective grinding for payment calculations in accordance with the incentive and disincentive payment table in this special provision except the sections corrective ground to a PI less than 10.0 inches per mile will not earn more than 100.0% payment.

3. Individual bumps in excess of 0.3 inches in 25 feet will be subject to one of the following at the discretion of the Engineer.

a. Satisfactorily correct the deficient area by corrective grinding as specified in section E.1.a of this special provision.

b. Individual bumps less than 0.25 inches in 10 feet may be accepted without correction.

c. Remove and replace deficient areas.

Pavements with a PI exceeding 10.1 inches per mile in any 0.1 mile section with individual bumps in excess of 0.3 inches in 25 feet may be corrected to an improved PI by corrective grinding in accordance with section E.1 and E.2 of this special provision.

Coring for pavement thickness measurement will be performed after all corrective action has been completed

F. Incentive and Disincentive Payments: The Department will make incentive and disincentive payments based on the following chart:

Profile Index (in/mile)	**Price Adjustment (% of contract unit price)[*1]**
0 to 2.9	103.5
3 to 3.9	102.4
4 to 4.9	101.2
5 to 10.0	100.0
10.1 to 12.9	98.8
13 to 15.9	97.7
16 to 20	96.5

[*1] Incentive payments cannot be improved due to grinding regardless of the average PI.

The adjustment in the contract unit price will apply to the total area of the 0.1 mile long section. The Department will calculate the area using the total lane width (12 feet or less) and the total length of the section (0.1 mile or less if the section is the segment at the end of the project).

When the use of a profilograph/profiler is specified, the final surface may also be checked with a 10 foot straightedge, according to Section 380.3 O.1 in locations determined by the Engineer.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
CONTRACTOR FURNISHED MIX DESIGN
FOR PCC PAVEMENT

AUGUST 30, 2018

This work consists of the Contractor establishing a mix design and providing a concrete paving mix for the Portland Cement Concrete (PCC) pavement of sufficient quality to serve the purpose for which the PCC pavement is intended.

Make the following changes to the specifications:

Section 380.3 A. - Delete this section and replace with the following:

A. Concrete Quality, Proportioning, and Field Performance:

1. **Contractor Responsibility:** The Contractor shall be responsible for the selection of materials meeting the specifications and shall be responsible for the design and composition of all concrete mixes used in the PCC pavement. The Contractor shall be responsible to produce and deliver a concrete paving mix that is uniform, consistent, workable, finishable, and that meets all requirements of the contract. The Contractor shall install a PCC pavement that is homogeneous, consolidated, durable, and free of defects.

   The Contractor is responsible for the actual field performance of the concrete mix and any adverse impacts resulting from the materials used on the project and the Contractor's batching, mixing, hauling, placing, consolidating, finishing, and curing of the concrete mix. Department review of the Contractor's proposed mix design under Section 380.3 A.3. does not relieve the Contractor of any obligations set out in this specification or in the contract as a whole.

2. **Mix Design Parameters:**

   On small areas using stationary side formed paving methods, the Engineer may permit the substitution of Class A45 concrete for the concrete paving mix. Class A45 shall meet the requirements of Section 460, except the concrete shall have a minimum 28 day compressive strength of 4000 psi, slump range of between 1 inch and 3 inches, and shall contain fly ash. Fly ash shall constitute 20% to 25% of the cementitious material at a 1:1 ratio by weight.

For all other areas and any areas where the Contractor utilizes slip form paving equipment, the following requirements shall apply:

a. **Mix Design Proportioning:** The Contractor shall select mix proportions conforming to the following.

   1) **Combined Aggregate:** Mix designs shall be based on aggregate specific gravities at saturated surface dry (SSD) condition. The mix design process shall produce a mix design that will plot within the optimum limits listed in Chart A. The mix design shall also meet the following requirements when plotted on the 0.45 power chart. The best fit line plotted on the 0.45 power chart shall use a top size of 1 inch aggregate for jointed concrete pavement and 1.5 inch aggregate for Continuously Reinforced Concrete Pavements (CRCP). The combined gradation when plotted on the 0.45 power chart should fit within the limits as defined in Chart B for jointed concrete pavement or Chart C for CRCP. CRCP mix designs shall retain a minimum of 11.5% of the total aggregate above the 1 inch sieve.

   2) **Cementitious Material Content:** The mix design shall establish a cementitious material content (total of cement, fly ash, and other cementitious additions). The minimum cementitious material content shall be 575 pounds per cubic yard. The maximum cementitious material content shall be 800 pounds per cubic yard.

   3) **Fly ash:** Fly ash shall be included in the concrete mixture. Fly ash shall constitute 20% to 25% of the cementitious material at a 1:1 ratio by weight.

   4) **Water/Cementitious Material Ratio:** The mix design shall establish a maximum water/cementitious material ratio, which shall not exceed 0.42 pounds/pounds.

   5) **Coarse Aggregate Percentage:** The mix design shall establish the percentage of coarse aggregates to be used. The minimum coarse aggregate content shall be 55% by weight of total aggregates.

   6) **Air Content:** The volumetrics of the mix design shall be based on 6.5% entrained air content.

b. **Contractor Laboratory Trial Batch Testing:** The Contractor will obtain laboratory tests on trial batches of the proposed mix design.

1) **Procedures:** The trial batch testing must be performed by a competent testing facility. The Department may perform an on-site inspection of the testing facility's mix design procedures and equipment. If the Department, in its sole discretion, deems a testing facility to be incapable of performing accurate, reliable, or valid testing, the Department may require the Contractor to obtain trial batch testing from a different testing facility. Trial batch testing shall be conducted in accordance with the American Concrete Institute Publication 211.1, ASTM C192.

   A minimum of four trial batches shall be required; two batches shall have identical proportions of aggregates and two batches shall have identical water/cementitious ratios or cementitious contents. Of the four trial batches, no two trial batches shall contain the same proportions. A different proportion of aggregate must be at least a 1% (of total aggregate) sand change or a 2% (of total coarse aggregate) rock change. A different water/cementitious ratio shall be at least a 0.02 change. A different cementitious content change shall be an addition or subtraction of at least 20 pounds of cementitious materials.

2) **Testing Results:** Through the trial batch laboratory testing, the Contractor must demonstrate that the proposed mix design reliably achieves the following laboratory test results:

   a) **Slump:** The slump at 20 minutes after completion of mixing for each trial mix shall be between 1.25 inches and 2.75 inches for slip-formed pavements and between 2.25 inches and 3.75 inches for formed pavements. The initial slump immediately after completion of mixing shall be tested and reported as well. The concrete for the 20 minute slump shall be exposed to ambient air temps between 68°F to 86°F.

   b) **Air content:** The air content for all concrete trial mixes shall have an entrained air content of 6.5% to 8.0%.

   c) **Compressive Strength:** The mix design shall be based upon obtaining an average minimum compressive strength of 5200 psi at 28 days.

      A minimum of 3 cylinders at each age and for each trial shall be tested for compressive strength at 7, 14, and 28 days. All 9 cylinders must be made from the same batch of concrete. The cylinders must be consolidated by the rodding method.

d) **Temperature:** The fresh concrete temperature shall be between 68°F and 86°F immediately after completion of mixing.

Consideration for expected field temperatures may be made when evaluating laboratory trials. Changes that cause a deviation from the requirements of this provision for expected field temperatures must be submitted and evaluated by the Concrete Engineer prior to performing trial batches.

3) **Waiver of Laboratory Trial Batch Requirements:** The Contractor may ask the Department to waive the Contractor's trial batch testing requirements if: (1) the mix design was successfully used on a previous Department project; and (2) the mix design is unchanged or the Contractor has made only minor modifications in the mix design, such as changes in admixtures and cementitious materials with the same ASTM designated type of material or small variations to aggregate proportions. The decision to waive the Contractor's trial batch testing requirements is solely within the discretion of the Department.

The Department's waiver of the laboratory trial batch testing requirements does not in any way relieve the Contractor of any obligations set out in this specification or in the contract as a whole. If required by the Engineer, the Contractor shall perform a plant gradation check or a plant mixed trial batch or both prior to use of the proposed mix design in field production. The Contractor shall submit these results to the Department's Concrete Engineer for Department review.

If the Contractor intends to use another party's successfully used mix design, the Contractor must provide written proof to the Department that the use of the mix design has been authorized by the other party.

c. **Proposed Mix Design Submissions:** A minimum of 40 calendar days prior to the anticipated use in field production, the Contractor shall submit the proposed mix design and supporting documentation to the Department's Concrete Engineer.

If laboratory trial batch testing requirements have not been waived, the Contractor shall submit the results of the trial batch testing with a completed Contractor Concrete Mix Design form (DOT-24). The trial batch testing results shall include all batched weights, admixtures and dosages, aggregate moisture contents, fresh concrete results (initial and 20 minute slump, initial air content, initial unit weight, and initial temperature), actual water/cementitious material ratio, compressive strengths, aggregate gradations (including production tests), aggregate quality results, and required material certifications. The Contractor shall also supply any additional data, supporting documentation, and samples requested by the Department.

If laboratory trial batch testing has been waived, the Contractor shall submit aggregate gradations (including production tests), and required material certifications with a DOT-24. The Contractor shall also supply any additional data, supporting documentation, and samples requested by the Department.

3. **Department Review:** The Department will review the Contractor's proposed mix design to determine if it conforms to the Department's materials and proportioning specifications. The Department may also review the Contractor's laboratory trial batch testing to determine compliance with required laboratory trial batch testing procedures and test results. The Department may, in its sole discretion, perform laboratory trial batch testing to replicate, to the Department's satisfaction, the Contractor's laboratory trial batch testing results.

   When the Department performs laboratory trial batch testing, the Department will not begin laboratory trial batch testing until the Contractor's trial batch samples have obtained an average compressive strength of at least 4000 psi at 7 days or at least 5200 psi at 28 days. The Department will attempt to replicate one of the submitted mix design trials. Satisfactory replication occurs when the Department's laboratory trial batch samples obtain an average compressive strength of at least 4000 psi at 7 days, at least 5200 psi at 28 days, or the average compressive strength is no more than 10% less than the Contractor's submitted 28 day strength. In the sole discretion of the Department's Concrete Engineer's, the Department may complete the replication process based on adequate strength results prior to 28 days.

   If the Department is unable to replicate the Contractor's laboratory trial batch testing to the Department's satisfaction, the Department will perform a second laboratory trial batch testing at the Contractor's request. If the Department is unable to replicate, to the Department's satisfaction, the Contractor's laboratory batch testing results for the proposed mix design after two attempts, the costs involved with any further laboratory trial batch testing will be at the Contractor's expense.

   The Contractor will not begin production and placement of the concrete mix until the Department's Concrete Engineer has confirmed, in writing, a successful review consisting of: (1) the Contractor's proposed mix design conforms to the Department's materials and proportioning specifications; and (2) if applicable, the Contractor's laboratory trial batch testing results comply with required laboratory trial batch testing procedures and test results; and (3) if applicable, the Department has replicated the Contractor's laboratory trial batch testing results to the Department's satisfaction.

4. **Field Performance and Testing:** In addition to the responsibilities set out in 380.3 A.1, the Contractor shall provide a concrete paving mix conforming to the most recent mix design proposed to and successfully reviewed by the Department. The concrete paving mix provided by the Contractor must also satisfy the following field tests:

    a. **Slump:** For the slip-form method, the slump of the concrete shall not be more than 2 inches at the time of placement. For the stationary side form method, the slump of the concrete shall be between 1 inch and 3 inches at the time of placement.

    b. **Entrained Air Content:** All concrete shall contain 6.5% entrained air with an allowable tolerance of +1% to -1.5%. Air shall be entrained by an air-entraining admixture.

    c. **Water/Cementitious Ratio:** The concrete shall not exceed the maximum Water/Cementitious ratio "W/C Ratio" as listed on the mix design. The W/C Ratio will be calculated as per 380.3 B.2 to compare the as-batched concrete against the mix design maximum.

    d. **Admixture Dosages:** The Contractor may adjust the admixture dosages listed on the final mix design submitted for use by the Contractor on the DOT-24 within the manufacturer's guidelines.

    e. **Compressive Strength:** Concrete shall exhibit a minimum compressive strength of 4000 psi at 28 days. The 28 day compressive strength shall be determined in accordance with Section 460.3 B.

5. **Mix Design Modification:** If, after successful Department review, the Contractor wishes to modify its mix design, the Contractor shall complete and submit a new DOT-24 to the Department's Concrete Engineer. A modification includes, but is not limited to, changes in aggregate source, changes in gradation targets, new admixtures, changes in brand name of admixtures, changes in brand name of cementitious materials, and changes to aggregate percentage splits.

    If the Contractor proposes to make modifications to the mix design that the Department's Concrete Engineer deems to be significant, the Contractor will obtain laboratory trial batch testing of the modified mix design in accordance with section 380.3 A.2.b. The Contractor shall submit the laboratory trial batch testing results to the Department's Concrete

Engineer for Department review. Significant modifications include, but are not limited to aggregate source, combined coarse aggregate gradation target, and combined total aggregate gradation target.

If the Contractor proposes to make modifications to the mix design that the Department's Concrete Engineer deems to be minor, the Department will not require the Contractor to perform laboratory trial batch testing but may require the Contractor to perform a plant gradation check or a plant mixed trial batch or both. The Contractor shall submit the results of any plant gradation check and plant mixed trial batch to the Department's Concrete Engineer for Department review. Changes to the aggregate percentage splits will require the Contractor to submit supporting documentation including, but not limited to the basis for the change and gradation test results. Minor modifications include, but are not limited to new admixtures, changes in brand name of admixtures, changes in brand name of cementitious materials, and changes to aggregate percentage splits.

The Department may, upon request from the Contractor, waive or modify the Contractor's laboratory trial batch testing, plant gradation check, or plant mixed trial batch requirement of the modified mix design.

The Contractor will not begin production and placement of the modified concrete mix until the Department's Concrete Engineer has confirmed, in writing, a successful review consisting of: (1) the Contractor's proposed mix design conforms to the Department's materials and proportioning specifications; and (2) if applicable, the Contractor's laboratory trial batch testing results comply with required laboratory trial batch testing procedures and test results; and (3) if applicable, the Department has replicated the Contractor's laboratory trial batch testing results to the Department's satisfaction.

Section 820.1 A. - Delete this section and replace with the following:

A. **Coarse Aggregate for Concrete Pavement:** The coarse aggregate shall consist of ledge rock. Coarse aggregate for Continuously Reinforced Concrete Pavement shall conform to Size #20. Coarse aggregate for all other PCC Pavements shall conform to Size #15.

Mix Design Charts:

Chart A

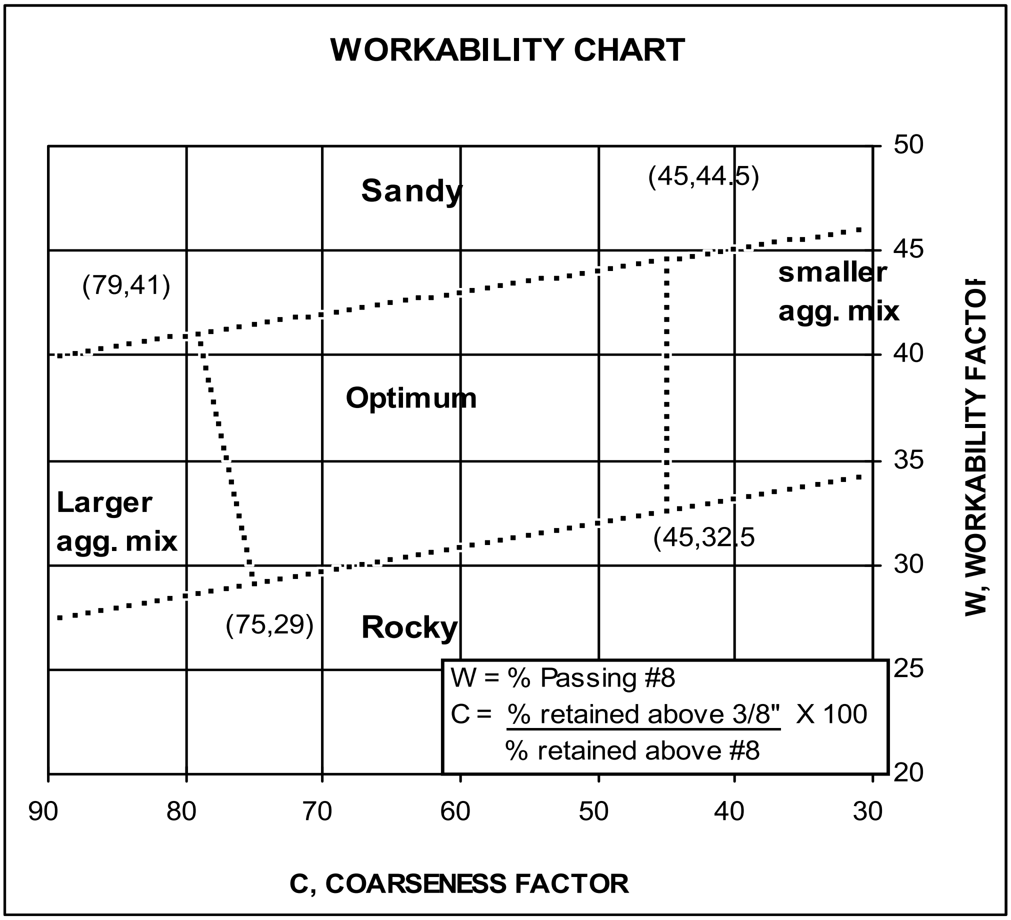


Chart B

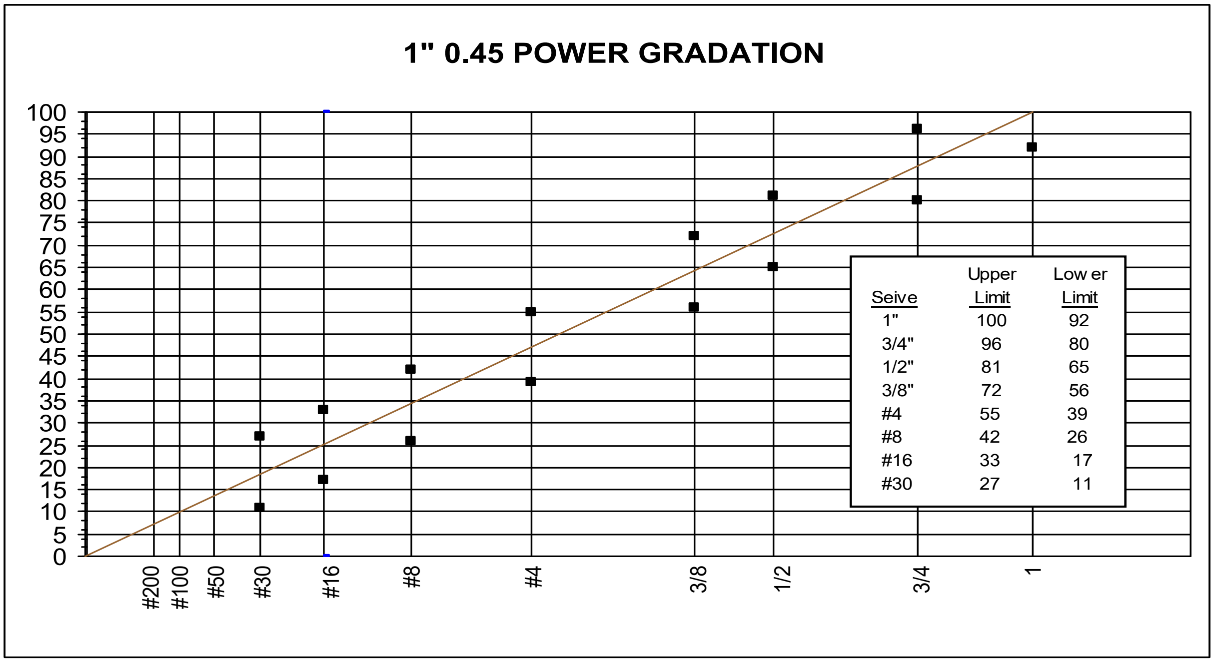
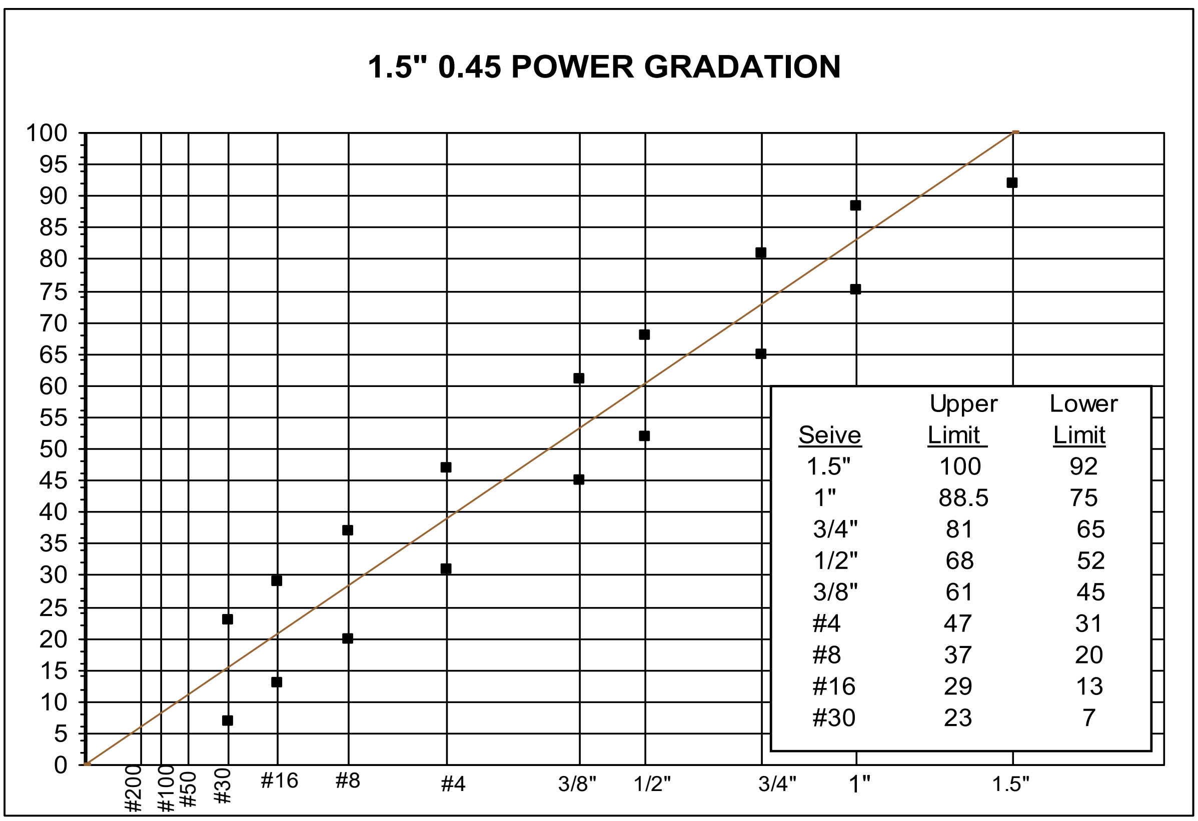


Chart C



* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
CONCRETE PENETRATING SEALER

JULY 30, 2024

I. DESCRIPTION

This work consists of furnishing and applying a concrete penetrating sealer to a properly prepared bridge deck surface in compliance with these specifications and the manufacturer's recommendations.

II. MATERIALS

The acceptable sealers are listed on the approved products list for Concrete Penetrating Sealer on the SDDOT Website.

The Contractor will furnish the Engineer the manufacturer's technical data sheets, materials safety data sheet (MSDS), and sufficient evidence that the material to be used has not exceeded the manufacturer's specified shelf life. This documentation will be furnished to the Engineer a minimum of 5 days prior to application of the sealer.

III. CONSTRUCTION REQUIREMENTS

A. **Surface Protection and Preparation:** The concrete deck surface will be protected from contamination from dirt and debris by covering the deck with a material approved by the Engineer until such time that the surface preparation for the penetrating sealer is begun. Any materials or equipment placed on the deck during this protection period will be placed such that there is no danger of spillage, leakage, or other contamination to the concrete surface.

Concrete surfaces will be cleaned by power washing such that all traces of laitance, dirt, dust, salt, oil, asphalt, paint, and other foreign materials and deleterious substances are removed prior to application of the penetrating sealer. If oil, grease, or other contaminants are inadvertently spilled on the concrete surface, detergent cleaning along with an abrasive blast cleaning will be required on the affected areas.

Other methods and equipment for surface preparation may be used if prior approval is obtained from the Engineer.

If necessary, solvents and hand tools will be used in conjunction with the blasting media to remove bonded materials detrimental to the treatment of the concrete surface.

The cleaning process will not cause undue damage to the concrete surface, remove, or substantially alter the existing surface finish, or expose the coarse aggregate of the concrete. The method of cleaning will be performed in such a manner as to provide a reasonably uniform appearing surface color and texture.

The sealer may be harmful to materials such as rubber, asphalt, and joint compounds; therefore, the Contractor will be required to mask off all joints, strip seals, etc. prior to applying the sealer.

The Engineer will approve the prepared surface prior to application of the penetrating sealer.

B. **Sealer Application:** The Contractor will have a sufficient quantity of sealer on the project prior to the start of application such that the manufacturer's maximum rate of coverage (minimum ft^2/gal) can be attained. Sealer application will conform to the manufacturer's recommendations and the following:

1. **Weather Limitations:** The penetrating sealer will only be applied when the ambient air and concrete surface temperatures are between 40^o F and 100^o F unless otherwise recommended by the manufacturer. The treatment solution will not be sprayed when blowing winds or other conditions prevent proper application.

   The sealer will not be applied during inclement weather or rain, or if inclement weather or rain is anticipated within 24 hours.

2. **Application Equipment:** Spray equipment for the application of the treatment solution will be a low-pressure airless type sprayer with a maximum application pressure of 15 psi.

3. **Application:** Concrete will be cured for 28 days prior to the application of the sealer. The sealer may be applied prior to the 28 day cure period, but no sooner than 14 days, provided that there is no evidence of moisture in the concrete when tested in accordance with ASTM D4263 and the concrete has attained 80% of the specified design strength.

All surfaces will be substantially dry prior to application of the sealer. The concrete surfaces will be allowed to dry a minimum of 3 days after power washing or precipitation. The Engineer will determine when the surface is sufficiently dry.

All loose dust and debris will be blown off of the concrete surface with compressed air immediately prior to application of the sealer.

The sealer will be used as supplied by the manufacturer and will not be diluted or altered in any way.

The solution will be sprayed on to the concrete surfaces at the manufacturer's recommended maximum rate of coverage (minimum ft^2/gal) or to refusal, whichever is achieved first. Refusal is defined such that additional spray applications remain on the concrete surface and do not soak in, as determined by the Engineer.

If the plans specify a grooved bridge deck surface, the grooving will be accomplished prior to the application of the sealer.

4. **Traffic Limitations:** Traffic will not be permitted on treated surfaces nor will pavement markings be applied until the solution has completely penetrated and the treated surface is dry. The Engineer will determine when the surface is sufficiently dry.

IV. METHOD OF MEASUREMENT

Concrete penetrating sealer will be measured to the nearest 0.1 square yard.

V. BASIS OF PAYMENT

Concrete penetrating sealer will be paid for at the contract unit price per square yard. Payment will be full compensation for equipment, labor, materials, and all other incidental items required to prepare the concrete surfaces, and to furnish and apply the penetrating concrete sealer.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
NON-NATIONAL FOREST FIRE PLAN

MAY 5, 2015

I. DESCRIPTION

This plan outlines the channels of responsibility for fire prevention and suppression activities and sets up an attack procedure in the event of a fire within the Project Area. The Project Area is defined as all forested areas within 1/2 mile of the project right-of-way work areas which are not within the national forest and all roads used for construction purposes.

II. RESPONSIBILITIES

A. Contractor:

1. Will cooperate with the Area Engineer in preparation of a fire plan, by furnishing necessary information on personnel, equipment, and organization.

2. Is responsible for and will direct all fire suppression activities within the project area until relieved by a South Dakota Wildland Fire Division Representative.

3. Will make certain that prevention and suppression actions are in accord with contract requirements, including the fire plan.

4. Will immediately notify authorities if a fire occurs. The following telephone numbers will be used:

   a. **911**

   b. **Great Plains Dispatch Center – 605-399-3160**

5. Will delegate the second person in authority on the job to be responsible for the above activities when he or she is not on the project.

B. Area Engineer:

1. Will review the standard fire plan for adequacy and after discussing any need for changes, will add any specific provisions needed for the project.

2. At least once on each project, will perform an inspection of compliance with the project fire requirements. The Area Engineer will notify the Contractor of corrective measures which must be taken when fire requirements are not being observed.

III. TOOLS AND EQUIPMENT

A. Required Tools:

1. The Contractor shall furnish and maintain in a serviceable condition; one shovel, McLeod, or Pulaski for each of his employees; to be used only for suppressing wildland fires. These tools will be kept in sealed boxes and available within the immediate working area.

2. The Contractor shall furnish one shovel and one fully charged fire extinguisher UL rated at 4 B:C or more on each truck, personal vehicle, tractor, grader, or other heavy equipment. For each welder he/she shall furnish one shovel and one backpack five-gallon water-filled tank with pump; for each gasoline power tool, including but not limited to chain saws, soil augers, rock drills, etc. one shovel or one chemical pressurized fire extinguisher, fully charged. The required fire tools shall, at no time, be farther than 25 feet from the point of operation of the power tool. Contractor shall also furnish any other equipment called for elsewhere in the contract.

   Shovels shall be size “O” or larger and shall be not less than 35 inches in length.

   All fire tools and equipment required to be furnished by the Contractor shall be in good working condition at all times.

B. Available Equipment: Prior to the beginning of the contract, the Contractor shall furnish a list of equipment used on the project to the Area Engineer. The established list will be attached to and become a part of the fire plan.

IV. PERSONNEL

The Contractor shall furnish a list of supervisory personnel, and amount of workers available on the project to the Area Engineer. Such a list will be attached to and become a part of the fire plan. Changes in supervisory personnel and amount of personnel shall be reflected in amendment to the list.

V. GENERAL PROVISIONS

A. Fire Prevention:

1. Arrangements will be made with the SD Division of Wildland Fire and USFS to notify the Department of Transportation when the Fire Danger Rating is “Very High” or “Extreme.” This information will be furnished to the Engineer who will notify the Contractor for dissemination and action in the area affected. If there is a discrepancy between this notice and the Fire Danger Rating obtaining from the nearest office of either SD Division of Wildland Fire or USFS, the Contractor shall conduct operations according to the higher of the two Fire Danger Ratings.

a. If the Fire Danger Rating reaches “**Very High**”, the following condition will prevail:

1) Falling of dead trees or snags shall be discontinued.
2) No open burning will be permitted, fire shall be extinguished.
3) Welding shall discontinue except in an enclosed building or within an area cleared of flammable material for a radius of 15 feet.
4) Blasting shall be discontinued.
5) Smoking will be permitted only in automobiles and cabs of trucks equipped with an ashtray or in cleared areas immediately surrounded by a fire break, unless prohibited by other authority.
6) Vehicular travel will be restricted to cleared areas except in case of emergency.

b. If the Fire Danger Rating reaches “**Extreme**”, the following precautions shall be taken in addition to the conditions specified above:

1) Work of a nature which could start a fire shall require that properly equipped fire guards be assigned to such an operation for the duration of the work and patrol the area of construction while work is being done and for at least one-half hour after shutdown of the work.
2) Smoking will be permitted only in automobiles and truck cabs equipped with an ashtray, unless prohibited by other authority.

2. Burning, Blasting, or Welding: Advance approval in writing will be required and will contain special stipulations pertinent to the particular job. The District Ranger may give, in writing, seasonal approval with stipulations for blasting and/or welding. Permission to blast with fuse or caps will require special written permission. Use of detonating cord will not be allowed in clearing operations. Explosives will be stored in a locked box marked “EXPLOSIVES” at all times. All federal, State, and local laws concerning the use and storage of explosives shall be complied with. All flammable material will be cleared for a distance of 15 feet around any welding operation.

3. **Spark Arrestors:** All gasoline and diesel-powered equipment used in the performance of the work shall be equipped with a spark arrester qualified and rated under the USDA Forest Service unless it is:

   a. Equipped with a turbine-driven exhaust supercharger, such as the turbocharger. There shall be no exhaust bypass.

   b. A passenger carrying vehicle or light truck, or medium truck up to 40,000 GVW, used only on roads and equipped with a factory designed muffler complete with baffles and an exhaust system in good working condition.

   c. A truck or a piece of highway surfacing equipment used only on roads and equipped with a factory designed muffler having a vertical stack exhaust system extending above the equipment.

   The exhaust equipment described above, including spark arrestors and mufflers, shall be properly installed and constantly maintained in serviceable condition.

4. **Power Saws:** Each gasoline power saw shall be provided with a spark screen and a muffler in good condition. Spill-proof metal safety cans shall be used for refueling.

5. **Storage and Parking Areas:** Batch plant areas, equipment service areas, parking areas, gas and oil drum storage areas, and explosive storage areas will be cleared of all inflammable material for a distance of 50 feet. Small stationary engine sites shall be cleared of all flammable material for a distance of 15 feet. Flammable and explosive storage areas will be labeled as such, and “No Smoking” signs erected.

6. **Oil filters, Cartridges, Oil rags:** Used and discarded oil filters, cartridges, and oil rags or waste will be removed from the project and disposed of in accordance will all applicable Federal, State and Local laws.

B. Fire Suppression:

1. Contractor shall, both independently and in cooperation with the SD Division of Wildland Fire, take all reasonable and practicable action to prevent and suppress fires resulting from Contractor operations and to suppress any wildfire in the project area.

2. In line with this agreement personnel will be supplied from project crews to fight fires on the project area up to the total number of personnel employed by the Contractor and the subcontractors as they are needed by the incident commander. The SD Division of Wildland Fire will make every effort to avoid calling on the Contractor for action on fires outside the project area except for emergencies.

   The Incident Commander may call out all needed available help to control fires on the project area.

C. Payment:

1. **SD Division of Wildland Fire:** Will pay Contractor personnel firefighting and equipment as well as equipment operator's wages used for fire suppressions work on fires not a result of the project operation or its personnel at Forest Service Equipment Use Rates as established annually or other use rates may be negotiated in advance as required.

2. **Contractor:** Will pay for all costs of fires resulting from the project operations.

D. Black Hills Fire Protection District: The Black Hills National Forest has a very volatile wildfire profile due to the ponderosa pine fuel type and unique weather phenomena thus fire prevention is of upmost importance. Illegal fires are often built by individuals and then attended by large groups. Upon finding illegal fire attended by large groups officers have difficulty finding the person(s) who started the illegal fire. Having the ability to hold everyone attending the fire accountable allows officers to effectively deal with the illegal fire. Further, this regulation will also allow Forest Officers to enforce fire prevention regulations established by the State of South Dakota.

The Forest Order pertaining to the Black Hills Fire Protection District in essence, places Stage I Fire Restrictions year round. To ensure the protection of public safety, public and private property, and the natural resources within the Black Hills National Forest by regulating the use of fires within the Black Hills Fire Protection District.

1. **Prohibitions:**

   a. Building, maintaining, attending, or using a fire or campfire unless the fire is in an established fireplace approved or constructed by a public agency in a designated recreation area. Stove fires are excluded from this Order. 36 C.F.R. § 261.52(a).

A Campfire is defined as a fire, not within any building, mobile home, or living accommodation mounted on a motor vehicle, which is used for cooking, personal warmth, lighting, ceremonial, or aesthetic purpose.

A Stove fire is defined as a fire built inside an enclosed stove or grill, a portable brazier, or a pressurized liquid gas stove, including a space-heating device.

b. To the extent not authorized by the exemptions below, violating any provision of SDCL §§ 34-35-15, 34-35-16 and/or 34-35-17, which prohibit open fires in the Black Hills Fire Protection District, copies of which statutes are attached and hereby incorporated into this Order as Exhibit A. 36 C.F.R. § 261.52(k).

Note: South Dakota Statue defines “open fire” as any fire to burn slash, brush, grass, stubble, debris, rubbish, or other inflammable material not enclosed in a stove, spark proof incinerator, or an established fireplace approved or constructed by a public agency in a designated recreation area.

2. Exemptions:

Pursuant to 36 C.F.R. § 261.50 (e), the following persons are exempt from this Order:

a. Any person with a Forest Service or State issued permit specifically authorizing the otherwise prohibited act or omission.

b. Any Federal, State, or local officer, or member of any organized rescue or fire fighting force in the performance of an official duty.

E. Stage II Fire Restrictions: The purpose of enacting Stage II Fire Restrictions on a National Forest is to protect public health and safety due to the current and anticipated elevated risk of wildfire. Stage 2 Fire Restrictions could be considered a rare occurrence.

1. Prohibitions:

a. Building, maintaining, attending or using a fire, campfire, or stove fire. 36 CFR § 261.52(a). This includes charcoal grills and barbecues, coal and wood burning stoves and sheepherder’s stoves and **includes use in developed camping and picnic grounds.**

EXCEPT: Devices using pressurized liquid or gas (stoves, grills, or lanterns) that include shut-off valves are permitted when used in an area at least three feet or more from flammable material such as grasses or pine needles.

b. Welding or operating acetylene or other torch with open flame. 36 CFR § 261.52(i).

c. Operating or using any internal combustion engine (e.g. chainsaw, generator, ATV) without a spark arresting device properly installed, maintained and in effective working order meeting either:

1) Department of Agriculture, Forest Service Standard 5100-1a; or
2) Appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a). 36 CFR § 261.52(j).

d. Operating a chainsaw without an approved spark arresting device as described in Prohibition c, a chemical pressurized fire extinguisher (8 oz. capacity by weight or larger and kept with the operator) and a round point shovel with an overall length of at least 35 inches readily available for use. 36 CFR § 261.52(h).

e. Using an explosive. 36 CFR § 261.52(b). This includes but is not limited to fuses or blasting caps, fireworks, rockets, exploding targets, and tracers or incendiary ammunition.

f. Possessing or using a motor vehicle off established roads, motorized trails or established parking areas, except when parking in an area devoid of vegetation within 10 feet of the vehicle. 36 C.F.R. § 261.56.

2. Exemptions: Pursuant to 36 C.F.R. § 261.50(e), the following persons are exempt from specified Prohibitions of this order:

a. Persons with a valid Forest Service permit or contract specifically authorizing the otherwise prohibited act or omission may be eligible for an exemption from Prohibitions a-f. Any exemption must be applied for in writing, include an appropriate mitigation plan and must be authorized in writing by the appropriate Forest Service official. The authorization must be in the physical possession of the person or persons undertaking the exempted activities.

b. Any Federal, State or local officer or member of an organized rescue or firefighting force in the performance of an official duty is exempt from Prohibitions a-f.

c. Residents, owners, or lessees within the restricted area are exempt from Prohibition a, provided such fires are within a permanent dwelling and there is a spark arrestor in working order on the chimney.

F. **Fire Plan Duration:** This plan will be in force from the duration of the contract. This fire plan will apply to any and all subcontractors and their employees. The Contractor will be responsible to see that all subcontractors and their employees are made aware of the contents of this fire plan.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
LOW SHRINKAGE BRIDGE DECK CONCRETE

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

MARCH 30, 2026

The following modifications to the specifications will only apply to bridge deck concrete specified in the plans to be paid for under the contract item “Class A45 Low Shrinkage Concrete, Bridge Deck”. The modifications will not apply to all other Class A structural concrete.

Section 460.2 – Page 307 – Add the following to this section:

L. Fine Lightweight Aggregates: Fine lightweight aggregates will conform to ASTM C1761.

Section 460.3 A – Page 307 – Delete and replace with the following:

A. Concrete Quality and Proportion: The Contractor will design and be responsible for the performance of all concrete mixes used in structures.

Mix designs will be modified during the course of the work when necessary to assure compliance with the requirements for strength and consistency. All mix designs and any modification thereto, including changes in admixtures, will be approved by the Concrete Engineer prior to use. Mix design data and test results will be recorded on a DOT-24 and submitted to the Engineer a minimum of 70 calendar days prior to anticipated use.

The mix design will produce a concrete conforming to the following requirements:

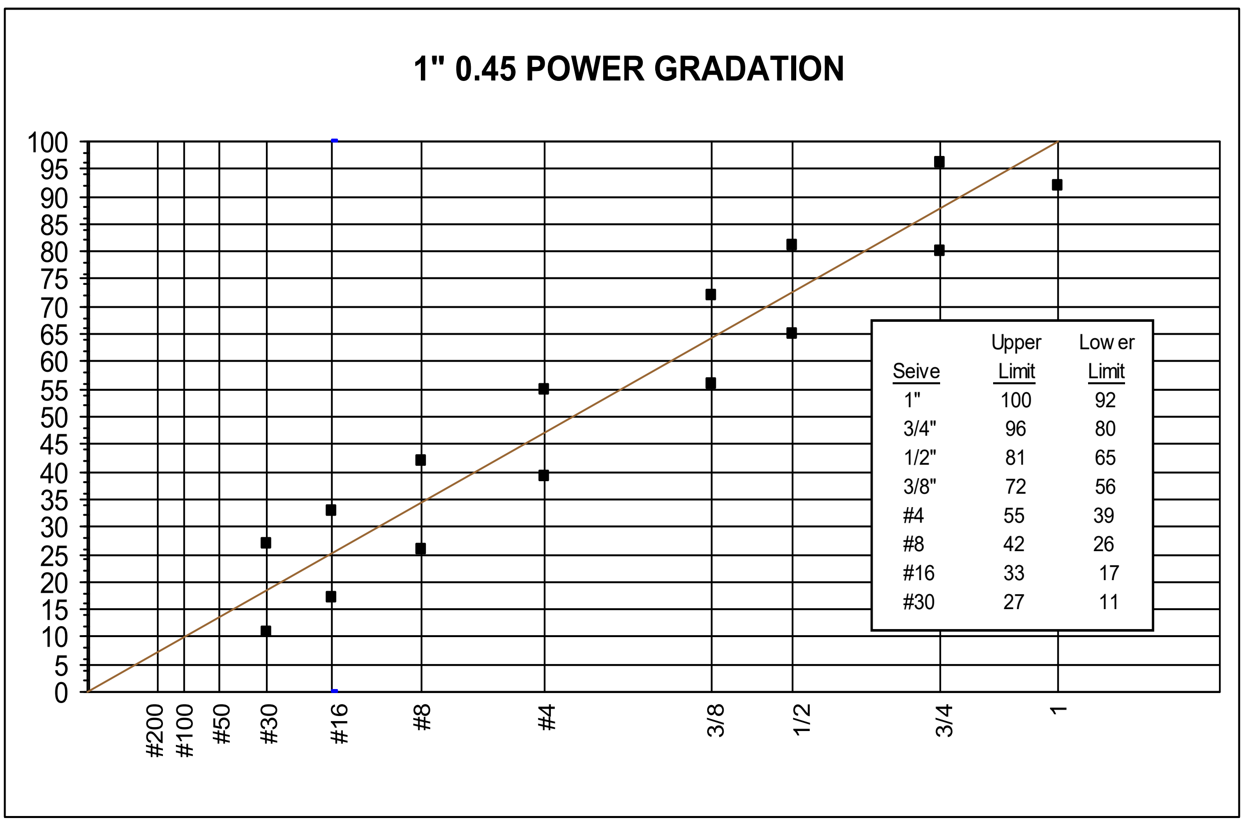
Table 1

Class of Concrete	Minimum Cementitious Content*1 (Pounds / cubic yard)	Maximum Cementitious Content*1 (Pounds / cubic yard)	Maximum Water/ Cementitious Material Ratio*2	Slump Range at Time of Placement	Entrained Air Content Range (%)	Minimum Coarse Aggregate Content*3 (%)	Minimum 56-Day Compressive Strength (PSI)
A45	550	615	Field maximum listed on mix design	2 - 4 inches	5.5 to 7.5	50	4500

*1 The Contractor will substitute a portion of the cement with Class F modified fly ash in accordance with Section 605 for all concrete used in bridge decks, bridge sidewalks, and barrier curbs. The amount of cement to be replaced will be 20% to 25% by weight. The ratio of substitution of fly ash to cement will be 1:1 by weight.
*2 The mix design will establish a maximum water/cementitious material ratio, which will not exceed 0.45
*3 The minimum coarse aggregate content is determined by the percent weight of the total aggregates.

The absolute volume method as described in the American Concrete Institute Publication 211.1 will be used in selecting mix proportions. The Contractor will use a well graded concrete mix. The combined aggregate proportions submitted for mix design verification will conform to Chart A for size #15 coarse aggregate. The mix design will be based upon obtaining an average concrete compressive strength 1200 psi above the specified minimum 56-day compressive strength. The Department may use laboratory trial batches to verify the concrete mix submitted.

Chart A



The proposed concrete mix, when tested in accordance with ASTM C157 (56-day total test duration), will exhibit a maximum 28-day drying shrinkage limit maximum of 280 microstrain (0.028%). Specimens will be prepared with 3-inch square cross sections and 10-inch gauge lengths, cured for 28 days in accordance with ASTM C157 Section 10, and stored in accordance with ASTM C157 Section 11.1.2 (air storage) for 28 days following the curing period. Drying shrinkage will be determined by comparison of specimen dimensions at the end of the 28-day curing period to those at the end of the 28-day air storage period.

The proposed concrete mix will contain a shrinkage reducing admixture or fine lightweight aggregate or both.

If fine lightweight aggregate is used, the mix design will contain 15-30% fine lightweight aggregate by weight of the total weight of fine aggregate and fine lightweight aggregate. If shrinkage reducing admixture is used, the mix design will contain a rate recommended by the manufacturer (typically 1-1.5 gallons per cubic yard).

If fine lightweight aggregate is used in the field produced concrete mix, the Contractor will saturate and prepare the fine lightweight aggregate in accordance with the manufacturer's recommendations. The manufacturer of the fine lightweight aggregate will supply a 72-hour absorption value. The Department will determine the free moisture in the supplied fine lightweight aggregate in accordance SD 108, procedure 3.3.

1. **Concrete Mix Design Performance:** Satisfactory performance of the proposed concrete mix design will be verified by laboratory tests on trial batches. The trial batches must be performed by a testing facility approved by the Concrete Engineer. Trial batches will be conducted in accordance with the American Concrete Institute Publication ACI 211.1, ACI 318, ASTM C192 and the following:

   a. A minimum of three trial batches will be performed.

   b. The slump of each trial batch will be within ±3/4 inch of the maximum specified.

   c. The air content of each trial batch will be +0.5% to -1.0% of the maximum specified.

   The results of each trial batch test will be furnished by the Contractor to the Engineer at the time the proposed mix design is submitted. The as-batched results will include the following: ASTM C157 results, material weights, aggregate moistures, fresh concrete test results (slump, air content, unit weight, and mix temperature), water cementitious material ratios, compressive strengths, aggregate gradations, and aggregate qualities. In addition, aggregate supplier production test results will be provided.

2. **Alternate Concrete Mix Design:** A concrete mix design previously used will be considered in compliance with the mix design requirements provided all of the following conditions are met:

   a. The concrete mix proportions are in accordance with Section 460.3 A.

   b. The mix design, including all material and admixtures, are identical to those previously used and tested.

   c. The average 28- or 56-day compressive strength of 10 or more test results from an approved testing facility is at least 1.34 standard deviations above the specified strength. These test results and associated batch tickets will be submitted to the Engineer. No more than 1 in 10 compressive strength test results may be below specified strength.

   d. The Contractor submits all supporting information for the mix design, including but not limited to, ASTM C157 results, batch tickets, fresh concrete test results (slump, air content, unit weight, and mix temperature), water cementitious material ratios, compressive strengths, aggregate gradations, and aggregate qualities.

Section 460.3 B – Page 310-313 – Change all references of 28-day to 56-day.

Section 460.3 P – Page 329 – Delete the 1st sentence of the 1st paragraph and replace with the following:

Class A45 low shrinkage concrete bridge decks will attain 4000 psi and all falsework will be removed prior to backfilling. Class A45 low shrinkage concrete bridge decks will attain full design strength and all falsework will be removed prior to applying highway live loads to the structure.

Section 820.1 B – Page 530 – Delete and replace with the following:

B. **Coarse Aggregate for Class A Concrete:** The coarse aggregate will consist of ledge rock. Coarse aggregate for Class A45 low shrinkage concrete, bridge deck will conform to the gradation requirements of Size #15.

In Section 6.2 A.(3) of the Minimum Sampling and Testing Requirements (MSTR) of the Department's Materials Manual, delete the 3rd paragraph and replace with the following:

A set of cylinders will consist of a minimum of 6 cylinders. Two cylinders will be used for compressive strength at 56 days (One cylinder is tested at 56 days and the other is saved for the backup). The other four cylinders will be used for early breaks (Normally at seven, 14, 28, and 35-45 days). If additional early breaks are desired or required, additional cylinders must be made.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR STAINLESS REINFORCING STEEL

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

MARCH 30, 2026

I. DESCRIPTION

This structure requires the use of stainless steel deformed reinforcing bars for some parts of the structure, as shown on the plans. Stainless steel reinforcing bars will conform to Section 480 with the following exceptions and additions.

II. MATERIALS

Provide Duplex 2205 (UNS S31803) or 2304 (UNS S32304), deformed stainless steel reinforcing bars conforming to the requirements of ASTM A 955 "Standard Specifications for Deformed and Plain Stainless Steel Bars for Concrete Reinforcement" meeting the grade specified in the plans. Stainless steel reinforcing bars will be free of mill scale. Certified Mill Test Reports and a Certificate of Compliance are required.

III. CONSTRUCTION REQUIREMENTS

A. **Bar Supports:** Bar supports will be plastic or stainless steel.

B. **Tie Wires:** Tie wires will be stainless steel, 18 gauge or heavier.

C. **Handling:** Stainless steel rebar will be shipped, handled, and placed such that carbon steel does not come in contact with the stainless steel rebar. Padding will be used to separate carbon steel bundling bands, or lifting devices, from the rebar. Wire rope will not be used in lifting or handling the reinforcing. Use wooden spacers to separate bundles of stainless steel rebar from other types of rebar.

D. Storage: Cover stainless steel rebar with tarps during outdoor storage. Use wooden supports to store stainless steel rebar off the ground or shop floor.

E. Placing: Stainless steel rebar will be placed such that carbon steel does not come in contact with the stainless steel rebar. Contact surfaces will be protected with a polymer or neoprene.

IV. METHOD OF MEASUREMENT

Stainless reinforcing steel will be measured according to Section 480.

V. BASIS OF PAYMENT

Stainless reinforcing steel will be paid at the contract unit price per pound according to Section 480.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR AGGREGATE COLUMN REINFORCEMENT

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

FEBRUARY 18, 2025

I. DESCRIPTION

This work will consist of design, testing, furnishing the material for, and installation of aggregate columns in accordance with this special provision and the contract plans. The term "Aggregate Column" as used in this special provision refers to columns of compacted aggregate used to reinforce the ground to increase bearing capacity and reduce settlement of embankments and structures. The columns may be constructed with a down-hole vibrator or down-hole tamper.

The purpose of the aggregate columns is to improve soils within reasonably close conformity to the limits shown on the plans and improve the performance of the proposed retaining walls.

The final location and extent of the aggregate columns will be determined by the Contractor but will conform to the minimums listed in Section III of this special provision.

II. MATERIALS

A. **Backfill Materials:** Aggregate column backfill material will be clean crushed stone, meeting the requirements of Section 820.2 for deleterious substances and percentage of wear. The backfill aggregate will conform to the gradation requirements of select granular backfill in Section 850.

B. **Water:** Potable water or other suitable source will be used to increase the aggregate moisture content when required.

III. CONSTRUCTION REQUIREMENTS

A. **Design Requirements:**

1. **Foundation Improvement Area:** The design of aggregate columns by the aggregate column contractor will take into account the location and other aspects of the abutments, including but not limited to the piling. Aggregate columns will have a minimum of 5 feet clear distance from piling. Limits of the foundation improvement area will extend from 2 feet in front of the precast modular stem walls to at least 2 feet behind the lowest stem. Foundation improvement beneath Wall B will be from Station 113+25 to Station 206+00. Foundation improvement beneath Wall C will be from Station 118+60 to Station 200+80. The approximate foundation improvement limits are depicted in the Grading Plans (Section B) and on the Subsurface Plan and Profile Sheets.

2. **Working Platform Elevation:** Prior to beginning installation of aggregate columns, the working platform will be established by excavating to a depth of 1 foot below the bottom elevation of the proposed concrete leveling pad for the wall within the limits of the foundation improvement area and placing 1 foot of granular material, as shown in the Grading Plans and Typical Section. Each step change in the bottom of wall elevation will require a change in the working platform elevation. The Contractor will not excavate deeper than the elevation required to place the working platform to limit risk to the stability of the railroad track. Granular material will conform to the requirements of Aggregate Base Course in Section 882 of the Specifications.

3. **Column Depth:** The aggregate columns will extend through the compressible, soft, or weak soils, or any combination. Aggregate columns will extend to a minimum depth of 16 feet, or as specified by the Designer, whichever is deeper.

4. **Replacement Ratio:** The minimum replacement ratio will be 13.5%, or greater as needed to meet design bearing capacity and settlement criteria.

5. **Bearing Capacity:** The aggregate column system will provide a minimum Factored Bearing Resistance of 9,500 psf.

6. **Settlement:** The maximum allowable post- embankment construction settlement will be 2 inches, and the maximum allowable differential settlement will be 1 inch in 100 feet.

B. Construction:

1. **Aggregate Column Contractor's Experience Requirements and Submittals:**

   The aggregate column design and installation will be performed by a specialist aggregate column Contractor experienced in the design and installation of aggregate columns. The Contractor will have successfully completed at least three projects of similar size within the last five years using the same proposed installation technique.

The aggregate column Contractor will have previous experience installing aggregate columns in soil and groundwater conditions similar to the project conditions. The Contractor will submit construction details, structural details, and verification test results for at least three previous successful aggregate column projects of similar scope to this project.

The aggregate column Contractor will assign an engineer to this project with method-specific experience from previous projects. The engineer will serve as a full-time quality control representative to supervise the work and verify all installation procedures.

The on-site foreman will have a minimum of three years' experience in supervising construction of aggregate columns of similar size, using the same methods in similar soil and groundwater conditions.

At least 45 calendar days prior to the installation of the aggregate columns, the Contractor will submit five copies of the completed project reference list and a personnel list to the Engineer. The project list will include a brief project description with the owner's name and phone number and results of the tests performed as part of the verification program. The personnel list will identify the supervising engineer and on-site foreman to be assigned to the project. The personnel list will contain a summary of each individual's experience and be complete enough for the Engineer to determine whether each individual satisfies the required qualifications. The Engineer will accept or reject the Contractor's qualification within 15 calendar days after receipt of a complete submission. Additional time required due to incomplete or unacceptable submittals will not be cause for time extensions or impact or delay claims. All costs associated with incomplete or unacceptable submittals will be borne by the Contractor.

Work will not begin until the Engineer's written acceptance of the Contractor's experience qualification is given. The Engineer may suspend the work if the Contractor uses personnel not included in the Engineer's review. If the work is suspended, the Contractor will be fully liable for all resulting costs and no adjustments in contract time will result from the suspension.

2. **Submittals:** The Contractor will prepare and submit an Aggregate Column Installation Plan to the Department for the Department's review. The Department will review the installation plan for general conformance with the contract plans and specifications only. Any deviation from the plans or

specifications not clearly noted by the Contractor will not be reviewed. The Aggregate Column Installation Plan must include the following:

a. Construction drawings for review showing identification numbers, spacing, locations, and depths of the aggregate columns, as well as details for the working platform and changes in depth of the working platform. Construction drawings will be signed and sealed by a Professional Engineer registered in the State of South Dakota.

b. Detailed step-by-step description of the proposed equipment and construction procedures to be used, including a plan to dispose of any water or spoils. Operations will be sequenced so that the lateral extent of the excavated work area is limited, and the Contractor will not excavate deeper than is required to reach the elevation required to place the working platform, to limit risk to the stability of the railroad track. Include the proposed limits of each phase of excavation within the sequencing. Descriptions of the proposed equipment and construction procedures should reference applicable minimums listed in section III.B.9 of this special provision.

c. A proposed Verification Program.

d. The gradation of the proposed aggregate column backfill material the Contractor proposes to use. Upon completion of the review, the Contractor will maintain this gradation throughout the aggregate column installation.

e. A proposed plan for quality control throughout the installation procedure. This will address issues such as control and measurement of column or pier diameter, lift thickness, full time quality control personnel, and any other pertinent information.

f. Design calculations including results of bearing capacity, anticipated settlements, and other calculations relating to the performance of the aggregate columns.

g. A proposed program to monitor settlement during and after construction of the retaining walls and embankment.

The Contractor will provide required submittals 21 calendar days prior to initiating aggregate column construction. The Contractor will send an email with the submittals attached as a PDF to the Project Engineer. Upon request, the Project Engineer will provide the Contractor with the appropriate email addresses. Within 14 calendar days of receiving the submittals, the Department will respond to the Contractor and submitter in one of the following ways: 1) No Exceptions Noted; 2) Returned for

Revision; or 3) Not Required for Review. If the Department's response states "Returned for Revision", the Contractor will make the revisions and resubmit the submittals for review as specified above. Upon completion of the Department's review process and a Department response of "No Exceptions Noted" or "Not Required for Review", the Contractor will send the Project Engineer an email with the final installation plan as a PDF for distribution. The Contractor will not begin construction of the work contained in the submittals until the Department has confirmed, in writing, a completed review with a response of "No Exceptions Noted" or "Not Required for Review".

3. **Verification Program:** A verification program designed, accomplished, and reported by the Contractor is required to measure the quality of the installed aggregate columns. The proposed verification program is subject to review by the Engineer. As a minimum, the verification program must include the following:

    a. Minimum of two verification tests, to be completed prior to installation of production columns, located along Wall B at approximately Station 114+50 and Station 203+50. Verification tests will, at a minimum, consist of a modulus test measuring deflection at the top of the pier with a load per column of at least 150 percent of the design load.

    b. Proposed means and methods for verification ensuring design and performance criteria have been satisfied. This will include modulus tests as described above, and may also include additional load tests on individual elements, groups of elements, soil borings, and other methods as required by the aggregate column designer or required by the Engineer. Acceptable performance will consist of demonstrating that the installed columns are at least as stiff as their design stiffness. Construction equipment may be used as deadload for verification testing.

    c. A quality control program to verify that the aggregate columns are installed in accordance with the designer's specifications and the requirements outlined in this special provision.

4. **Daily Reports:** During construction, the Contractor will submit daily progress reports to the Engineer detailing the following:

    a. Column identified by location number.
    b. Date constructed.
    c. Elevation of top and depth of each column.
    d. Average lift thickness.
    e. Volume estimate and location of any ground heave or subsidence.

f. Vibrator power consumption during penetration and compaction of each increment of column constructed (if applicable).
g. Description of soil and groundwater conditions.
h. Details of any obstructions, delays, and unusual ground conditions.
i. Quantity of aggregate placed in each column.
j. Amount of water used per column (if applicable).
k. Results of quality control testing.

5. **Construction Site Survey:** Before bidding the work, the Contractor will review the available subsurface information and visit the site to assess the site geometry, equipment access conditions, and locations of existing structures and above ground facilities.

6. **Aggregate Column Preconstruction Meeting:** An aggregate column preconstruction meeting will be scheduled by the Engineer and held prior to the start of aggregate column construction. The Engineer, prime Contractor, aggregate column specialty Contractor, and representatives from the SDDOT's Geotechnical Engineering Activity will attend the meeting. Attendance is mandatory. The aggregate column preconstruction meeting will be conducted to clarify the construction requirements for the work, to coordinate delineation of responsibilities amongst the prime Contractor and aggregate column Contractor, anticipated subsurface conditions, aggregate column survey control, and aggregate column installation and testing.

7. **Site Drainage Control:** The Contractor will control all materials displaced as a result of aggregate column installation, including water and cuttings, and properly dispose of these in accordance with the Specifications and all applicable local codes and regulations.

8. **Aggregate Column Allowable Construction Tolerances:** If any aggregate column or groups of columns falls outside these tolerances, the Engineer may require additional column(s) installed at the Contractor's expense.

   a. Horizontal Control: The center of the completed column will be within 4 inches of the plan location.

   b. Vertical Control: The completed column will not deviate from the vertical by more than 2 inches in 10 feet.

   c. Diameter: The completed column effective diameter will not be more than 10% below the plan diameter and the average effective diameter of any group of 50 consecutively installed columns will not be less than the plans diameter.

9. **Procedures and Equipment:** The actual construction procedures and equipment will be determined by the Contractor. The following are minimum requirements:

   a. Down-Hole Vibrator Method:

      1) The vibrator will be capable of providing at least 70 HP of rated energy, a centrifugal force of 15 tons, and capable of providing a daily report of vibrator power consumption for each increment of individual column construction.

      2) The probe and follower tubes will be of sufficient length to reach the elevations shown on the Contractor's design plans and shop drawings. The probe used in conjunction with the tip jet will be capable of penetrating to the required tip elevation. Pre-boring of silt lenses, layers, or strata if encountered is permitted.

      3) The probe and follower tubes will have visible markings at regular increments to enable measurement of penetration and re-penetration depths.

      4) When the pre-drilled hole remains open during construction, pre-drilling to the design depth will be performed with an auger of diameter equal to the plans diameter.

      5) If required by installation method or if caving soil conditions are encountered, provide methods for supplying to the tip of the probe a sufficient quantity of air or water to widen the probe hole to allow adequate space for aggregate backfill placement around the probe. Maintain the flow of air or water from the bottom of the jet at all times during backfilling to prevent caving or collapse of the hole and to form a clean aggregate column.

      6) The probe will penetrate to the minimum depths required in the Contractor's design plans or listed in section III.A.3 of this special provision, whichever is deeper.

      7) Lift thickness will not exceed 4 feet. After penetration to the treatment depth, slowly retrieve the vibrator in 1-foot to 3-foot increments to allow backfill placement.

      8) Compact the backfill in each lift by re-penetrating it at least twice with the horizontally vibrating probe to densify and force the aggregate radially into the surrounding soil. Re-penetrate the aggregate in each increment a sufficient number of times to develop an ammeter reading on the motor significantly higher than the freestanding (unloaded) ampere draw on the motor.

      9) Aggregate columns will be installed so that each completed column is continuous throughout its length.

      10) Removal of subsurface obstructions, if directed by the Engineer, will be incidental to the aggregate columns. Additional columns or replacement columns required due to obstructions will also be incidental to the aggregate columns. Obstructions include but are not limited to boulders, timbers, concrete, and utility lines which prevent placing a column to the required depth or cause a column to drift from the required location.

11) Any ground heave that is observed will be reworked and compacted by the Contractor prior to the retaining wall foundation construction. The depth of soil to be reworked and degree of the compaction required will be determined by the Engineer. Rework and compaction of heaved ground will be incidental to the aggregate column installation.

12) If during jetting operations caving, collapse of the hole, or any other ground disturbances occur, the Engineer may require alternative installation procedures, including but not limited to predrilling and use of temporary casing, at no additional cost to the Department.

b. Down-Hole Tamper Method:

1) The tamper will have a diameter that is at least 85% of the pre-drilled hole diameter, have beveled sides, and be long enough to reach the full depth of the pre-drilled hole. The tamper will have a minimum Construction Industry Manufacturer's Association (CIMA) rating of 1,200 ft-lb and will apply direct downward impact energy to each lift of aggregate.

2) The drilled cavity excavation will be in reasonably close conformity to the limits and construction stages shown on the plans. Temporary casing may be required to limit sloughing of subsurface soils, the casing should be inserted to at least 2 feet beyond the sloughing strata. Casing of sufficient length will be onsite prior to beginning drilling operations. Upon extraction, the bottom of the casing should be maintained at not more than 1 foot to 2 feet above the level of backfill.

3) Removal of subsurface obstructions, if directed by the Engineer, will be incidental to the aggregate columns. Additional columns or replacement columns required due to obstructions will also be incidental to the aggregate columns. Obstructions include but are not limited to boulders, timbers, concrete, and utility lines which prevent placing a column to the required depth or cause a column to drift from the required location.

4) Backfill placement will closely follow the excavation of each cavity. The backfill will be placed in 12-inch-thick loose lift thickness. Each lift should be rammed with a high-energy impact tamper to the satisfaction of the Engineer and as recommended in the Contractor's design plans.

IV. METHOD OF MEASUREMENT

Measurement will be by quantity of cubic yards of aggregate column material installed. The plan quantity is calculated to the nearest 1/10th of a cubic yard using the dimensions of the treatment areas, a projected column diameter of 30 inches, initial column spacing of 6 feet center to center, and initial projected depths of 16 feet. The initial quantity of 4145.2 cubic yards of material is only an estimate based on these values. The aggregate column Designer will determine actual quantities, spacing, depth, and all other design aspects of the aggregate column foundation improvements within the requirements of this Special Provision. Aggregate column verification testing and temporary casing will not be measured.

V. BASIS OF PAYMENT

The Contractor will be paid the quantity of cubic yards of aggregate column installed. This payment will be full compensation for design, field staking for the location of the elements, mobilization, drilling, furnishing, transporting, placing and compacting aggregate column backfill, associated work, and full-time quality control. Verification testing and temporary casing will not be paid for directly and will be considered incidental to the aggregate column foundation improvements.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR MECHANICALLY STABILIZED EARTH (LARGE PANEL) WALLS

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

MARCH 30, 2026

I. DESCRIPTION

This work will consist of mechanically stabilized earth walls constructed in accordance with these specifications and in reasonably close conformity with the lines, grades, and dimensions shown on the plans or established by the Engineer. Design details for these earth retaining structures such as specified strip or mesh length, concrete panel thickness, loading conditions, size of concrete leveling pad, and details for appurtenances will be as shown on the shop plans. This specification is intended to cover all steel strip or mesh stabilized earth wall systems utilizing discrete concrete face panels, some of which may be proprietary.

II. MATERIALS

The contractor will make arrangements to purchase or manufacture the facing elements, reinforcing mesh or strips, attachment devices, joint filler, and all other necessary components. Materials not conforming to this section of the specifications or from sources not listed in the contract documents will not be used without written confirmation from the Engineer.

A. **Reinforced Concrete Facing Panels and Concrete Coping:** The facing panels will be as specified in the plan notes. The panels and coping will be fabricated in accordance with Section 8 of AASHTO LRFD Bridge Construction Specifications with the following exceptions and additions.

   1. **Notification:** The Contractor will notify the Engineer 24 hours in advance of all concrete pours for inspection and observation of Contractor testing.

   2. **Concrete Mix Requirements:** Portland cement concrete will conform to Section 560 of the Specifications. The minimum compressive strength at 28 days is 4,000 psi.

3. **Forms:** Forms will conform to Section 560 of the Specifications.

4. **Fabrication:** Fabrication will conform to Section 560 except:

   a. The concrete panels will be fully supported until the concrete reaches a minimum compressive strength of 1,000 psi. The panels may be shipped after reaching a minimum compressive strength of 3,600 psi.

   b. The following minimum sampling and testing requirements for the concrete will be performed by the fabricator.

      Acceptance of concrete panels and coping with respect to compressive strength, slump, and air testing will be determined on the basis of production lots. A production lot is defined as a group of panels or coping that will consist of either 40 panels, 40 coping sections, or a single day's production, whichever is less.

      During the production of the concrete panels, the manufacturer will randomly sample the concrete every production lot according to SD 402.

      1) **Compressive Strength:** A single compressive strength sample consists of a minimum of four cylinders. Compression tests will be made on standard 6-inch by 12-inch test specimens prepared according to SD 405. Compressive strength testing will be conducted according to AASHTO T 22.

         For every compressive strength sample a minimum of two cylinders will be tested at 28 days if prior cylinders have not indicated lot compressive strength acceptance.

         To determine timing of form removal, shipping the panels/coping sections, or compressive strength acceptance prior to 28 days, a minimum of two cylinders will be tested at ages determined by the fabricator. The compressive strength of a single cylinder can determine the form removal timing or when the panels/coping sections can be shipped.

         Compressive strength acceptance of a production lot will be made if the average of two cylinders compressive strength test results is greater than or equal to 4,000 psi. If the 28-day compressive strength test result is less than 4,000 psi, then the acceptance of the production lot for compressive strength will be based on its meeting the following acceptance criteria in their entirety:

i. Ninety percent of the compressive strength test results for the overall production will exceed 4,150 psi.

ii. The average of the prior six consecutive compressive strength test results will exceed 4,250 psi.

iii. No individual lot compressive strength test result will fall below 3,600 psi.

2) **Slump:** The slump test will be performed according to SD 404. The slump will be determined at the beginning of each day's production and at the same time the compressive strength samples are taken to ensure compliance.

3) **Air:** Air content will be performed according to SD 403. Air content will be determined at the beginning of each day's production and at the same time the compressive strength samples are taken to ensure compliance.

5. **Concrete Cure:** Concrete cure will conform to Section 560 of the specifications.

6. **Surface Finish:** Unless otherwise specified in the plans, the concrete surface of the front face will have a Class I finish as defined by Section 8.12 of AASHTO LRFD Bridge Construction Specifications and the rear face will have a uniform surface finish. The rear face of the panel will be screeded to eliminate open pockets of aggregate and surface distortions in excess of 1/4 inch. The panels will be cast on a flat area. The strips or other metal attachment devices will not contact or be attached to the face panel reinforcement steel.

   The unformed surfaces of the coping will be screeded and fully worked with a suitable floating tool. Before the finish has set, the surface cement film will be removed with a fine brush such that a fine-grained, smooth but sanded texture is achieved.

7. **Marking:** The date of manufacture, the production lot number, and the piece mark will be clearly inscribed on an unexposed face of each panel.

8. **Handling, Storage, and Shipping:** All concrete panels and coping will be handled, stored, and shipped in such a manner as to prevent chipping, discoloration, cracks, fractures, and excessive bending stresses. Panels and coping in storage will be supported on firm blocking to protect the panel connection devices and the exposed exterior finish.

9. **Tolerances:** All concrete panels will be manufactured within the following tolerances.

   a. **Panel Dimensions:** Position panel connection devices within one inch of the plans specified location, all other panel dimensions will be within 3/16 inch of plans specified dimensions.

   b. **Panel Squareness:** Squareness as determined by the difference between the two diagonals will not exceed 1/2 inch.

   c. **Panel Surface Finish:** Surface irregularities on the front surface of the panel measured over a length of five feet will not exceed 1/8 inch. Surface irregularities on the front surface of the panel of a textured finished surface measured over a length of five feet will not exceed 5/16 inch.

10. **Rejection:** Production lots will be rejected because of failure to meet any of the requirements specified above. In addition, any of the following defects will be sufficient cause for rejection of individual panels or coping sections:

   - Defects that indicate imperfect molding.
   - Defects indicating honeycombed or open textured concrete.
   - Cracked or severely chipped panels.
   - Color variation on front face of a panel or on an exposed surface of a coping unit due to excess form oil or other reasons.

11. **Reporting:** A report will be provided to the Engineer detailing all the compressive strength, slump, and air content testing results for each production lot before final acceptance will be given. The testing results performed on that lot to date are to be provided to the Engineer before a lot can be shipped from the point of manufacture.

B. **Soil Reinforcement and Attachment Devices:** Reinforcing and attachment devices that do not meet the manufacture's requirements and are not free of defects will be rejected (i.e. bent strips, damaged coating, etc.). All parts and soil reinforcement will be in their final configuration prior to galvanizing.

   1. **Steel Ribbed Reinforcing Strips:** Reinforcing strips will be hot-rolled from bars to the required shape and dimensions. The strips' physical and mechanical properties will conform to the requirements of ASTM A572, Grade 65 or equivalent. Galvanizing will conform to the requirements of ASTM A123 with a minimum thickness of 2.0 oz/ft^2. Epoxy coatings will meet the requirements of ASTM A775 for reinforcing strips. The minimum thickness will be 18 mills.

2. Ladder Reinforcement: Will be cold drawn steel wire milled to the required shape and dimensions. The physical and mechanical properties will conform to ASTM A1064 plain wire Grade 65. Longitudinal and transverse wires will be of equal size. Minimum shear strength of welds will be 35 ksi. Connector plate material will conform to the requirements of ASTM A1011, Grade 50 or equivalent. Galvanization will conform to ASTM A123 with a minimum thickness of 2.0 oz/ft2. Epoxy coatings will meet the requirements of ASTM A884 for ladder reinforcement. Minimum thickness will be 18 mills.

3. **Tie Strips:** The tie strips will be shop fabricated of hot-rolled steel and will conform to the requirements of ASTM A1011, Grade 50 or equivalent. Galvanization will conform to ASTM A123 with a minimum thickness of 2.0 oz/ft2. Epoxy coatings will meet the requirements of ASTM A884 for ladder reinforcement or ASTM A775 for reinforcing strips. Minimum thickness will be 18 mills.

4. **Fasteners:** Bolts will consist of hexagonal cap screws and nuts conforming to ASTM A449 or equivalent. Galvanizing will conform to ASTM F2329. Tie strips will be cast in the precast concrete panels such that all connectors are in alignment and able to transfer full and even load to the soil reinforcement. Once the reinforcement is connected to the panel, the amount of slack will not exceed 1/8 inch between the connector and the reinforcement during field installation.

C. **Joint Materials:** Installed to the dimensions and thickness according to the plans and shop drawings.

1. All horizontal and diagonal joints between panels will include bearing pads. Bearing pads will meet or exceed the following requirements:

   a. Rubber blocks tested in accordance with ASTM D2240 with a minimum Durometer Hardness of 60 for Type A.

   b. Preformed HDPE (High Density Polyethylene) pads with a minimum density of 59 pcf tested in accordance with ASTM D1505.

2. Provide a geotextile fabric to cover all vertical and horizontal joints between panels on the back side of the wall. The minimum fabric width will be 18 inches with a 6 inch lap.

D. **Granular Backfill for MSE Large Panel Wall:** All backfill material used in the structure volume will be reasonably free from organic and deleterious material. The backfill material will be obtained from crushed natural sources conforming to the following gradation limits as determined by SD 202 using the surface course materials procedure:

Sieve Size	Percent Passing
1-1/2 inches	100
3/8 inch	0-15
#200 mesh sieve	0-10

The backfill will conform to the following additional requirements:

1. **Plasticity Index:** The plasticity index (P.I.) as determined by SD 207 will not exceed 2.

2. **Internal Angle of Friction:** The material will exhibit an angle of internal friction of not less than 34 degrees, as determined by the standard Direct Shear Test, AASHTO T 236 on the portion finer than the #10 sieve.

3. **Soundness:** The materials will be free of soft, poor durability particles. The material will have a sodium sulfate soundness loss of less than 15 percent after five cycles determined in accordance with AASHTO T 104 or SD 220.

4. **Electrochemical Requirements:** The backfill materials will meet the following criteria:

Requirements	**Test Methods**
Resistivity > 3,000 ohm centimeters	AASHTO T 288
ph 5-10	AASHTO T 289
Sulfates < 200 parts per million	AASHTO T 290
Chlorides < 100 parts per million	AASHTO T 291

If the resistivity is greater or equal to 5,000 ohm-cm, the chloride and sulfates requirements may be waived.

5. **Strength and Chemical Requirements:** The following aggregates meet the above strength and chemical parameters: Minnekahta Limestone, Sioux Quartzite, and Ortonville Granite.

6. **Design Parameters:** Direct shear tests performed on the above aggregates indicate an internal friction angle = 47 degrees, and cohesion = 0. No reduction or safety factors have been applied to these values. A value greater than the standard 34 degrees for the internal friction angle can be used at the wall designer's discretion. A dry unit weight = 105 pcf will be used for the Granular Backfill for MSE Large Panel Wall.

E. **Concrete Leveling Pad:** The concrete in the concrete leveling pad will conform to Class M6.

F. **Acceptance of Material:** The Contractor will furnish the Engineer a Certificate of Compliance certifying the above materials, including Granular Backfill for MSE Large Panel Wall if other than Minnekahta Limestone, Sioux Quartzite, or Ortonville Granite, comply with the applicable contract specifications. A copy of all test results performed by the contractor necessary to ensure contract compliance will also be furnished to the Engineer.

   Acceptance of the materials other than Granular Backfill for MSE Large Panel Wall will be based on the Certificate of Compliance, accompanying test reports, and visual inspection by the Engineer. Acceptance of the Granular Backfill for MSE Large Panel Wall will be in accordance with the Department's Materials Manual.

III. CONSTRUCTION REQUIREMENTS

A. **Construction Plans, Shop Plans, and Design Calculations:** The Contractor will consult with an approved MSE wall company and obtain design calculations and construction plans. These plans will be signed/sealed by a Professional Engineer registered in the state of South Dakota.

   At least 30 calendar days prior to fabrication or construction, the Contractor will submit construction plans, shop plans, and design calculations to the Department for the Department's review. The Department will review the construction plans, shop plans, and design calculations for general conformance with the contract plans and specifications only. Any deviation from plans or specifications not clearly noted by the Contractor will not be reviewed. Construction plans must include plan view, elevation view, typical cross sections, material and construction specifications, and a detailed quantity list consisting of actual quantities for: Structure Excavation, Retaining Wall (Cu. Yd.), Foundation Preparation, Retaining Wall (Cu. Yd.), MSE Large Panel Wall – Furnish and Install (Sq. Ft.), and Granular Backfill for MSE Large Panel Wall (Cu. Yd.). The Contractor will send an email with the construction plans, shop plans, and design calculations attached as a PDF to the Project Engineer and Office of Bridge Design. Upon request, the Project Engineer will provide the Contractor the appropriate email addresses. Within 30 calendar days of receiving the construction plans, shop plans, and design calculations; the Office of Bridge Design will respond to the Contractor and submitter in one of the following ways: 1) No Exceptions Noted; 2) Returned for Revision; or 3) Not Required for Review. If the Department's response states "Returned for Revision", the Contractor will make the revisions and resubmit the shop plans for review as specified above. Upon completion of the Department's review process and a Department response of "No Exceptions Noted" or "Not Required for Review", the Contractor will send the Project Engineer and the Office of Bridge Design an email with the final construction plans, shop plans, and design calculations as a PDF for distribution. The Contractor will not begin fabrication or construction of the work contained in the construction plans, shop plans, and design calculations until the Department has confirmed, in writing, a completed review with a response of “No Exceptions Noted” or “Not Required for Review”.

B. **Structure Excavation, Retaining Wall:** This work will consist of the necessary excavation for erection of the retaining wall system. Structure excavation will be in reasonably close conformity to the limits shown on the typical section located within the plans.

C. **Foundation Preparation, Retaining Wall:** The foundation area for the retaining wall will be excavated to the limits depicted within the plans or as directed by the Engineer. Backfill material will be as specified in the plans.

D. **Wall Erection:** At each change in elevation of the foundation level of the wall, a nonreinforced concrete leveling pad of the type shown on the construction plans will be provided. Concrete leveling pads will be cured a minimum of twelve hours before placement of wall panels.

A field representative from the proprietary wall system will be at the job site at the start of wall construction and as needed to resolve wall construction problems. Multiple trips may be required. Before wall construction begins, a pre-construction conference will be held to cover proper wall construction techniques. Personnel at this meeting will include, but not be limited to, Department project personnel, Contractor personnel, the Department’s Bridge Construction Engineer (or representative), and a field representative from the proprietary wall company. The field representative will also be present during the placement and backfilling of the first two complete rows of panels and reinforcement along the length of the wall, or until the backfill, compaction, and wall batter operations have been optimized. The decision of when the operations have been optimized will be at the sole discretion of the Engineer. The services of the field representative will be incidental to the wall cost. Projects that span multiple construction seasons will require an additional pre-construction conference prior to continuation of wall construction the second season. Previously required personnel will attend. The wall company field representative will be present when construction activities resume for the wall to verify correct construction procedures.

Construction of the wall will begin at the lowest course and proceed upwards. The entire lowest course must be placed and backfilled prior to the construction of any subsequent courses. Backfill placement must be in successive horizontal lifts as wall panel placement proceeds. Deviation from these requirements will require a submittal of the proposed erection plan, including how to retain backfill material laterally without undermining wall reinforcement, to the Bridge Construction Engineer for review a minimum of 30 days prior to beginning construction on the wall.

Design calculations and construction details for lateral retaining systems (if required for phased wall construction) will be included in the construction submittals. The cost of the lateral retaining system will be incidental to other retaining wall contract items.

The underdrain system, if applicable, will be placed prior to wall backfill placement. The underdrain system will provide positive drainage from the wall backfill. If the permanent outlet works for the underdrain system are not installed or unable to be installed, a temporary outlet works for the underdrain system will be constructed until the permanent outlet works can be constructed to prevent water from backing up in the wall backfill material.

Precast concrete panels will be placed so that their final position is vertical or battered as shown on the plans. For erection, panels are handled by means of lifting devices connected to the upper edge of the panel. Panels should be placed in successive horizontal lifts in the sequence shown on the plans as backfill placement proceeds. As backfill material is placed behind the panels, the panels will be maintained in position by means of temporary wedges or bracing according to the wall supplier's recommendations. Concrete facing vertical tolerances and horizontal alignment tolerances will not exceed 3/4 inch when measured with a ten-foot straight edge. During construction, the maximum allowable offset in any panel joint will be 3/4 inch. The overall vertical tolerance of the wall (top to bottom) will not exceed 1/2 inch per ten feet of wall height.

Reinforcement elements will be placed normal to the face of the wall, unless otherwise shown on the plans. Prior to placement of the reinforcing elements, backfill will be compacted according to these specifications.

The finished grade backfill in front of the wall will be placed and compacted to a minimum of 97% of maximum dry density as determined by SD 104. For walls in excess of 20 feet in height, the finished grade in front of the wall will be placed and compacted before wall construction exceeds a height of 20 feet.

E. **Backfill Placement:** Backfill placement will closely follow erection of each course of panels. Backfill will be placed to avoid any damage or disturbance of the wall materials or misalignment of the facing panels or reinforcing element. All wall materials that are damaged during fabrication or construction will be removed and replaced at the contractor's expense. Any misalignment or distortion of the wall facing panels due to placement of backfill outside the limits of this specification will be corrected by and at the expense of the contractor. At each reinforcement level, the backfill will be placed to the level of the connection. Backfill placement methods near the facing will ensure that no voids exist, especially beneath the reinforcing elements.

The moisture content prior to and during compaction will be uniformly distributed throughout each layer. Water will be applied at minimum rate of 0.25 gal/ft^2 of surface area per lift. The Contractor will increase this rate, when ordered by the Engineer, to ensure each lift is fully saturated.

The maximum lift thickness prior to compaction will not exceed eight inches.

Compaction will be achieved by at least four passes with a smooth drum vibratory roller. If adequate compaction is not achieved increase the number of passes, increase the size of the roller, or decrease the thickness of the lift, as directed by the Engineer.

The maximum lift thickness prior to compaction within three feet of the back face of the wall facing and within the area from the back face of the wall facing to two feet beyond the abutment piling steel casing will not exceed four inches. At least two lifts will be completed within this area per each lift outside this stated area.

Compaction within the area requiring four inch lifts will be achieved by at least three passes of a lightweight mechanical tamper, roller, or vibratory system.

At the end of each day's operation, the Contractor will slope the last course of the backfill away from the wall facing to rapidly direct runoff away from the wall face. The Contractor will not allow surface runoff from adjacent areas to enter the wall construction site.

The embankment immediately behind the wall reinforcement will be brought up evenly with the Granular Backfill for MSE Large Panel Wall or benched in accordance with Section 120.3 B.2 of the Specifications.

Backfill will not be constructed on frozen ground and frozen material will not be used in the construction of the MSE Large Panel Wall. The use of ground heaters, blankets, warmers, or other apparatuses may be used at the discretion of the Engineer.

IV. METHOD OF MEASUREMENT

Plan shown quantities are for bidding purposes only. Construction plans quantities will be the measurement for payment. Field measurements will not be made, unless the Department determines that conditions warrant such measurement.

A. **Structure Excavation, Retaining Wall** will be measured to the nearest cubic yard.

B. **Foundation Preparation, Retaining Wall** will be measured to the nearest cubic yard.

C. **Granular Backfill for MSE Large Panel Wall** will be measured to the nearest cubic yard.

D. **MSE Large Panel Wall, Furnish and MSE Large Panel Wall, Install** will be measured to nearest square foot. The area of retaining wall to be used for payment will be the area bounded by the top of coping, bottom of wall elevations and the beginning and end wall limits as shown on the construction plans.

V. BASIS OF PAYMENT

A. **Structure Excavation, Retaining Wall** will be paid for at the contract unit price per cubic yard. Payment will be full compensation for equipment, labor, tools and incidentals required to complete the work.

B. **Foundation Preparation, Retaining Wall** will be paid for at the contract unit price per cubic yard. Payment will be full compensation for equipment, labor, tools, and incidentals required for excavating and disposal of the excavated material; equipment, labor, materials, and all other items incidental to scarifying, reshaping, and recompacting the area to be backfilled; and incidentals for furnishing, placing, watering, and compacting backfill material.

C. **Granular Backfill for MSE Large Panel Wall** will be paid for at the contract unit price per cubic yard. Payment will be full compensation for equipment, labor, materials and all other items incidental to placing, watering, and compacting the granular material to the limits shown on the construction plans.

D. **MSE Large Panel Wall, Furnish**, will be paid for at the contract unit price per square foot. Payment will be full compensation for the cost of all wall panels, coping, reinforcing strips, hardware and all incidentals.

E. **MSE Large Panel Wall, Install,** will be paid for at the contract unit price per square foot. Payment will be full compensation for equipment, labor, materials and incidentals required to furnish and install the leveling pad, install the wall, furnish and install the underdrain system and drainage fabric as detailed on the construction plans.

The acceptable large panel wall suppliers are listed on the Department's Approved Products List on the Department's website.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
PRECAST MODULAR STEM WALL (WITH SCC)

PROJECT IM-CR-EM 0901(187)44, PCN 034J & 0A9K
MEADE COUNTY

APRIL 9, 2026

I. DESCRIPTION

This work will consist of the design, manufacture, and construction of the precast concrete modular retaining wall system, in accordance with these specifications and in reasonably close conformity with the lines, grades, and dimensions shown on the plans or established by the Engineer. The precast concrete modular retaining wall system shall consist of one or more precast concrete monolithic units that are stacked plumb and backfilled with granular fill material resulting in a retaining wall that satisfies internal and external stability without the use of external stabilizing elements, such as geogrid, geotextile, or metallic reinforcements. Design details for these earth retaining structures such as concrete wall units, loading conditions, size of concrete leveling pad, and details for appurtenances will be as shown on the shop plans.

II. MATERIALS

The contractor will make arrangements to purchase the wall units, attachment devices, joint filler, and all other necessary components. Materials not conforming to this section of the specifications or from sources not listed in the contract documents will not be used without written confirmation from the Engineer.

A. **Precast Modular Stem Wall Units:** The wall units will be fabricated in accordance with Section 8 of AASHTO LRFD Bridge Construction Specifications with the following exceptions and additions.

   1. **Notification:** The Contractor will notify the Engineer 24 hours in advance of all concrete pours for inspection and observation of Contractor testing.

   2. **Concrete Mix Requirements:** Portland cement concrete will conform to the Special Provision for Self-Consolidating Concrete (SCC) for Precast Mechanically Stabilized Earth (MSE) Large Wall Panels. The minimum compressive strength at 28 days is 5,000 psi.

3. **Forms:** Forms will conform to the Special Provision for Self-Consolidating Concrete (SCC) for Precast Mechanically Stabilized Earth (MSE) Large Wall Panels.

4. **Fabrication:** Fabrication will conform to the manufacture recommendations as provided in the shop plans and approved mix design except:

   The minimum sampling and testing requirements for the concrete will be performed by the fabricator in accordance with the Special Provision for Self-Consolidating Concrete (SCC) for Precast Mechanically Stabilized Earth (MSE) Large Wall Panels.

5. **Concrete Cure:** Concrete cure will conform to Section 560 of the Specifications.

6. **Surface Finish:** Unless otherwise specified in the plans, the concrete surface of the front face will have a Class I finish as defined by Section 8.12 of AASHTO LRFD Bridge Construction Specifications and all other surfaces will have a uniform surface finish with no distortions in excess of 1/4 inch and no open pockets of aggregate.

7. **Marking:** The date of manufacture, the production lot number, and the unit type will be clearly inscribed and permanently marked on the butt end of each stem.

8. **Handling, Storage, and Shipping:** All units will be handled, stored, and shipped in such a manner as to prevent chipping, cracking, fracturing and excessive bending stresses.

9. **Unit Finish and Tolerances:** All concrete units will be manufactured within the following tolerances.

   a. **Steel Form Finish - Unit Tolerances:** All dimensions will be within $\pm$ 1/4 inch.

   b. **Front Face Tolerance:** Length and height of front face shall be within $\pm$ 1/4 inch.

10. **Rejection:** Production lots will be rejected because of failure to meet any of the requirements specified above. In addition, any of the following defects will be sufficient cause for rejection of individual units:

    - Defects that indicate imperfect molding.
    - Defects indicating honeycombed or open textured concrete.
    - Cracked or severely chipped units.
    - Improperly placed reinforcing steel.

11. **Reporting:** A report will be provided to the Engineer detailing all the compressive strength, slump spread, and air content testing results for each production lot before final acceptance will be given. The testing results performed on that lot to date are to be provided to the Engineer before a lot can be shipped from the point of manufacture.

12. **Reinforcing Steel:** Reinforcing steel will conform to ASTM A615 grade 60 and Section 480 of the Specifications. The minimum cover for primary reinforcement, stirrups, and ties will be 1-1/2 inches.

B. **Joint Materials:** Installed to the dimensions and thickness according to the plans and shop drawings.

1. All horizontal joints between wall units will include bearing pads. Bearing pads will be rubber blocks tested in accordance with ASTM D2240 with a minimum Durometer Hardness of 60 for Type A.

2. Provide a geotextile fabric to cover all vertical and horizontal joints between wall units on the back side of the wall. The minimum fabric width will be 18 inches with a 6 inch lap.

3. Provide shear keys for the stem keyways. Precast shear keys will be made of the same concrete mix as the wall units and cured in the same manner. The shear keys will be wrapped with a closed cell polyethylene foam material (shear key wrap) to fit snugly into the stem keyways.

C. **Granular Backfill for MSE Large Panel Wall:** All backfill material used in the structure volume will be reasonably free from organic and deleterious material. The backfill material will be obtained from crushed natural sources conforming to the following gradation limits as determined by SD 202 using the surface course materials procedure:

Sieve Size	Percent Passing
1-1/2 inches	100
3/8 inch	0-15
#200 mesh sieve	0-10

The backfill will conform to the following additional requirements:

1. **Plasticity Index:** The plasticity index (P.I.) as determined by SD 207 will not exceed 2.

2. **Internal Angle of Friction:** The material will exhibit an angle of internal friction of not less than 34 degrees, as determined by the standard Direct Shear Test, AASHTO T 236 on the portion finer than the #10 sieve.

3. **Soundness:** The materials will be free of soft, poor durability particles. The material will have a sodium sulfate soundness loss of less than 15 percent after five cycles determined in accordance with AASHTO T 104 or SD 220.

4. **Strength Requirements:** The following aggregates meet the above strength: Minnekahta Limestone, Sioux Quartzite, and Ortonville Granite.

5. **Design Parameters:** Direct shear tests performed on the above aggregates indicate an internal friction angle = 47 degrees, and cohesion = 0. No reduction or safety factors have been applied to these values. A value greater than the standard 34 degrees for the internal friction angle can be used at the wall designer's discretion. A dry unit weight = 105 pcf will be used for the Granular Backfill for MSE Large Panel Wall.

D. **Concrete Leveling Pad:** The concrete in the non-reinforced concrete leveling pad will conform to Class M6.

E. **Acceptance of Material:** The Contractor will furnish the Engineer a Certificate of Compliance certifying the above materials, including Granular Backfill for MSE Large Panel Wall if other than Minnekahta Limestone, Sioux Quartzite, or Ortonville Granite, comply with the applicable contract specifications. A copy of all test results performed by the contractor necessary to ensure contract compliance will also be furnished to the Engineer.

Acceptance of the materials other than Granular Backfill for MSE Large Panel Wall will be based on the Certificate of Compliance, accompanying test reports, and visual inspection by the Engineer. Acceptance of the Granular Backfill for MSE Large Panel Wall will be in accordance with the Department's Materials Manual.

III. CONSTRUCTION REQUIREMENTS

A. Erection Plan, Shop Plans, and Design Calculations: The Contractor will consult with a Precast Modular Stem Wall company as stated in the plans and obtain design calculations and erection plans. These plans will be signed/sealed by a Professional Engineer registered in the state of South Dakota.

At least 30 calendar days prior to fabrication or construction, the Contractor will submit erection plans, shop plans, and design calculations to the Department for the Department's review. The Department will review the erection plans, shop plans, and design calculations for general conformance with the contract plans and specifications only. Any deviation from plans or specifications not clearly noted by the Contractor will not be reviewed. Erection plans must include plan view, elevation view, typical cross sections, material and construction specifications, and a detailed quantity list consisting of actual quantities for: Structure Excavation, Retaining Wall (Cu. Yd.), Foundation Preparation, Retaining Wall (Cu. Yd.), Precast Modular Stem Wall – Furnish and Install (Sq. Ft.), and Granular Backfill for MSE Large Panel Wall (Cu. Yd.). The Contractor will send an email with the erection plans, shop plans, and design calculations attached as a PDF to the Project Engineer and Office of Bridge Design. Upon request, the Project Engineer will provide the Contractor the appropriate email addresses. Within 30 calendar days of receiving the erection plans, shop plans, and design calculations; the Office of Bridge Design will respond to the Contractor and submitter in one of the following ways: 1) No Exceptions Noted; 2) Returned for Revision; or 3) Not Required for Review. If the Department's response states "Returned for Revision", the Contractor will make the revisions and resubmit the shop plans for review as specified above. Upon completion of the Department's review process and a Department response of "No Exceptions Noted" or "Not Required for Review", the Contractor will send the Project Engineer and the Office or Bridge Design and email with the final erection plans, shop plans, and design calculations as a PDF for distribution. The Contractor will not begin construction of the work contained in the erection plans, shop plans, and design calculations until the Department has confirmed, in writing, a completed review with a response of "No Exceptions Noted" or "Not Required for Review".

B. Structure Excavation, Retaining Wall: This work will consist of the necessary excavation for erection of the retaining wall system. Structure excavation will be in reasonably close conformity to the limits shown on the typical section located within the plans.

C. Foundation Preparation, Retaining Wall: The foundation area for the retaining wall will be excavated to the limits depicted within the plans or as directed by the Engineer. Backfill material will be as specified in the plans.

D. Wall Erection: At each unit foundation level, two continuous nonreinforced concrete leveling pads will be provided as shown on the approved shop drawing. Concrete leveling pads will be cured a minimum of 24 hours before placement of wall units. Leveling pads will be level and flat within ± 1/4 inch per 10 feet and no more than ¼ inch overall over 100 feet. Leveling pads that do not meet this requirement will be repaired or replaced as directed by the Engineer at no additional cost.

A field representative from the proprietary wall system will be at the job site at the start of wall construction and as needed to resolve wall construction problems. Multiple trips may be required. Before wall construction begins, a pre-construction conference will be held to cover proper wall construction techniques. Personnel at this meeting will include, but not be limited to, State project personnel, Contractor personnel, Bridge Construction Engineer, and a field representative from the proprietary wall company. The field representative will also be present at the start of wall construction and remain on site until wall construction operations have been optimized. The decision of when the operations have been optimized will be at the sole discretion of the Engineer. The services of the field representative will be incidental to the wall cost. Projects that span multiple construction seasons will require an additional pre-construction conference prior to continuation of wall construction the second season. Previously required personnel will attend. The wall company field representative will be present when construction activities resume for the wall to verify correct construction procedures.

Construction sequence of the wall will follow recommendations in manufacture's erection plan. Backfill placement must be in successive horizontal lifts as wall unit placement proceeds. Deviation from these requirements will require a resubmittal of the proposed erection plan, including how to retain backfill material laterally without undermining wall sections, to the Bridge Construction Engineer for review a minimum of 30 days prior to beginning construction on the wall.

Design calculations and construction details for lateral retaining systems (if required for phased wall construction) will be included in the construction submittals. The cost of the lateral retaining system will be incidental to other retaining wall contract items.

The underdrain system will be placed as shown in the plans prior to wall backfill placement. The underdrain system will provide positive drainage from the wall backfill. If the permanent outlet works for the underdrain system are not installed or unable to be installed, a temporary outlet works for the underdrain system will be constructed until the permanent outlet works can be constructed to prevent water from backing up in the wall backfill material.

Precast concrete wall units will be placed so that their final position is as shown on the plans. For erection, wall units are handled by means of lifting devices placed and connected as per the erection plan provided by the Manufacturer. Place wall units in successive horizontal lifts in the sequence shown on the erection plan.

Horizontal and vertical joint openings between panels will be 1/2 inch ± 1/4 inch. Horizontal alignment tolerance of the wall will not exceed ± 3/4 inch when measured with a 15-foot straight edge. Vertical tolerance (plumbness) of the wall unit will not exceed ± 3/4 inch when measured with a 10-foot straight edge. The overall vertical tolerance of the wall (plumbness from top to bottom) will not exceed ± 3/4 inch per 10 feet of wall height.

The finished grade backfill in front of the wall will be placed as soon as possible and compacted to a minimum of 97% of maximum dry density as determined by SD 104. For walls in excess of 20 feet in height, the finished grade in front of the wall will be placed and compacted before wall construction exceeds a height of 20 feet.

E. **Backfill Placement:** Backfill placement will closely follow the erection of each course of wall units. Backfill will be placed to avoid any damage or misalignment of the wall units. All wall units that are damaged during fabrication or construction will be removed and replaced at the contractor's expense. Any misalignment or distortion of the wall units due to placement of backfill outside the limits of this specification will be corrected by and at the expense of the Contractor.

The moisture content prior to and during compaction will be uniformly distributed throughout each layer. Water will be applied at minimum rate of 0.25 gal/ft^2 of surface area per lift. The Contractor will increase this rate, when ordered by the Engineer, to ensure each lift is fully saturated.

Backfill lifts will be uniform in thickness on both sides of the stem. The maximum lift thickness prior to compaction will not exceed eight inches.

Compaction will be achieved by at least four passes with a smooth drum vibratory roller. If adequate compaction is not achieved, increase the number of passes, increase the size of the roller, or decrease the thickness of the lift, as directed by the Engineer.

Reduced lift thickness and smaller mechanical compaction equipment will be required when backfilling around abutment piling steel casing.

Lift thickness and compaction requirements will be optimized during construction and may be adjusted as directed by the Engineer.

At the end of each day's operation, the Contractor will slope the last course of the backfill away from the wall unit to rapidly direct runoff away from the wall face. The Contractor will not allow surface runoff from adjacent areas to enter the wall construction site.

The embankment immediately behind the wall stems will be brought up evenly at the same time as the Granular Backfill for MSE Large Panel Wall or benched in accordance with Section 120.3.B.2 of the Specifications.

Backfill will not be constructed on frozen ground and frozen material will not be used in the construction of the Precast Modular Stem Wall. The use of ground heaters, blankets, warmers, or other apparatuses may be used at the discretion of the Engineer.

IV. METHOD OF MEASUREMENT

Plan shown quantities are for bidding purposes only. Erection plans quantities will be the measurement for payment. Field measurements will not be made, unless the Department determines that conditions warrant such measurement.

A. **Structure Excavation, Retaining Wall** will be measured to the nearest cubic yard.

B. **Foundation Preparation, Retaining Wall** will be measured to the nearest cubic yard.

C. **Granular Backfill for MSE Large Panel Wall** will be measured to the nearest cubic yard.

D. **Precast Modular Stem Wall, Furnish and Precast Modular Stem Wall, Install** will be measured to nearest square foot. The area of retaining wall to be used for payment will be the area bounded by the top of the wall, bottom of wall elevations and the beginning and end wall limits as shown on the construction plans.

V. BASIS OF PAYMENT

A. **Structure Excavation, Retaining Wall** will be paid for at the contract unit price per cubic yard. Payment will be full compensation for equipment, labor, tools and incidentals required to complete the work.

B. **Foundation Preparation, Retaining Wall** will be paid for at the contract unit price per cubic yard. Payment will be full compensation for equipment, labor, tools, and incidentals required for excavating and disposal of the excavated material; equipment, labor, materials, and all other items incidental to scarifying, reshaping, and recompacting the area to be backfilled; and incidentals for furnishing, placing, watering, and compacting backfill material.

C. **Granular Backfill for MSE Large Panel Wall** will be paid for at the contract unit price per cubic yard. Payment will be full compensation for equipment, labor, materials and all other items incidental to placing, watering, and compacting the granular material to the limits shown on the construction plans.

D. **Precast Modular Stem Wall, Furnish** will be paid for at the contract unit price per square foot. Payment will be full compensation for the cost of all precast reinforced concrete units, joint materials and all incidentals.

E. **Precast Modular Stem Wall, Install** will be paid for at the contract unit price per square foot. Payment will be full compensation for equipment, labor, materials and incidentals required to furnish and install the leveling pad, install the wall, furnish and install the underdrain system and drainage fabric as detailed on the construction plans.

* * * * *

THE FOLLOWING UTILITY COMPANIES ARE INVOLVED ON

PROJECT IM 0901(187)45, Meade County, PCN 034J

The contractor shall contact the following utilities in a sufficient amount of time prior to starting work. The companies will identify their facilities, and it is the responsibility of the contractor and the company to coordinate their work to avoid damage to existing facilities and to allow for relocation of facilities as may be required for grading work:

The following utilities were determined to be involved and were formally notified on September 9, 2022, that if their facility is located within the existing public right-of-way, any adjustment of their facility would have to be accomplished at no cost to the State, **within 90 days from receipt of the notice, unless other arrangements are made with the Area Engineer.**

(1) Montana Dakota Utilities
PO Box 1060
Rapid City, SD 57709-1060
CONTACT: Jeremy Lowe, TELE. #605-390-3041
The Company has an underground gas line within the existing public Right-of-Way along the west side of Sturgis Road that will need to be relocated. The Company has an underground 6" gas line in a 10" steel casing crossing Interstate 90 at approximately Station 1035+50 and continues along the north side of Spring Valley Court outside the existing public Right-of-Way. The Company has an underground gas line within the existing public Right-of-Way along the west side of Sturgis Road that they will need to relocate several spot locations during construction of storm sewer between Station 665+00 to 679+00, and along the south side of present Elk Creek Road east of Interstate 90. The Company also has a gas line within the existing public Right-of-Way running to the north from Elk Creek Road north along the Section Line between Section 14 and 15. Utility will have a plan for working with the contractor at pre-construction time. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

(2) CTL / Lumen
612 Mt Rushmore Rd
Rapid City, SD 57701
CONTACT: ARTHUR TURNER, TELE. #605-394-4720 or CELL 605-645-3757
The Company has underground telecommunication fiber lines located within the existing public Right-of-Way along the west and east sides of Interstate 90 and along the north and south sides of present Elk Creek Road. The Company has both underground telecommunication cables and telecommunication fiber lines located within the existing public Right-of-Way and proposed permanent easement along the west side of Sturgis Road within the project limits. The Company has 2 underground telecommunication cables within the existing public Right-of-Way along 219th Street and another cable along Spring Valley Court. There are telecommunication cable crossings with Interstate 90 at approximately Station 1037+50 (Abandoned), Station 1072+00 and a fiber line crossing at approximately Station 1059+00. There is an underground telecommunications fiber line outside the public Right-of-Way on the north end of the project site east of Interstate 90. The fiber along Sturgis Road Lumen will relocate once the initial grading is removed between Ramp D and

Sturgis Road during construction, otherwise they will have to bore this relocation. If they work during construction, they will trench the new line. Other lines are understood to be relocated, there will be several lines abandoned throughout the project site. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

(3) Midco
5111 S Louise Ave
Sioux Falls, SD 57108
CONTACT: BLAKE SANDIDGE, TELE. #605-787-3935
The Company has underground telecommunication fiber cables located within the existing public Right-of-Way along the west side of Sturgis Rd, this has been abandoned and relocated to OH west of Sturgis Road in Private Property. The Company has underground telecommunication fiber cables located outside the existing public Right-of-Way along the east side of Interstate 90 which, after Company's review of the highway construction plans, no adjustment/relocation should be necessary. There is a telecommunications fiber line crossing at approximately Station 1080+50 near present Elk Creek Road interchange structure with additional cable runs located within the existing public Right-of-Way along the south side of present Elk Creek Road. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

(4) SDN Communications
1089 Rand Road
Rapid City, SD 57702
CONTACT: RYAN SMITH, TELE. #605-978-1059 or CELL 605-209-2338
The Company has underground telecommunication fiber cables located within the existing public Right-of-Way along the east side of Interstate 90 which, it's understood that adjustment/relocation efforts have been completed. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

(5) Black Hills Energy (Transmission)
7001 Mount Rushmore Rd
Rapid City, SD 57702
CONTACT: Joe LeFors, TELE. #605-415-1419
The Company has Overhead (OH) Electric Distribution lines along the east side of Interstate 90 within private easement including an overhead distribution and transmission crossing of Interstate 90 at approximately Station 1025+00. An OH Electric Distribution line runs along the west side of Sturgis Road from the north end of the project through the City of Piedmont before continuing along present Elk Creek Road. The Company has OH Electric Distribution lines along present Elk Creek Road that runs along the south side until crossing over Elk Creek Road approximately at the intersection with the proposed Steak House Access. The Transmission line runs along the north side of present Elk Creek Road. It is understood that all BHE facilities have been moved to accommodate the project. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to

accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

(6) Black Hills Energy (Distribution)
PO Box 1400
Rapid City, SD 57709
CONTACT: KOLTEN ODLE, TELE. #605-490-9688
The Company has Overhead (OH) Electric Distribution lines along the east side of Interstate 90 within private easement including an overhead distribution and transmission crossing of Interstate 90 at approximately Station 1025+00. An OH Electric Distribution line runs along the west side of Sturgis Road from the north end of the project through the City of Piedmont before continuing along present Elk Creek Road. The Company has OH Electric Distribution lines along present Elk Creek Road that runs along the south side until crossing over Elk Creek Road approximately at the intersection with the proposed Steak House Access. The Transmission line runs along the north side of present Elk Creek Road. It is understood that all BHE facilities have been moved to accommodate the project. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

(7) WBI Energy Transmission
2010 Montana Ave
Glendive, MT 59330
CONTACT: Justin Pabst, TELE. #406-359-7346 or CELL 208-390-6092
The Company has 2 six-inch (6") steel, high-pressure petroleum products pipeline that crosses Elk Creek Road at approximately Station 525+00 running to the northwest.

(8) Bluepeak
809 Deadwood Ave
Rapid City, SD 57702
CONTACT: Pat Strasburger, CELL #605-939-5252
The Company has underground telecommunication cables located within the existing public Right-of-Way along the west side of Sturgis Road through the City of Piedmont. The Company also has underground telecommunication fiber lines located outside the existing public Right-of-Way along the west side of Sturgis Road near the proposed interchange before crossing under Sturgis Road at Station 682+00 and continuing along the east side of Sturgis Road outside of the project area. The Company has an overhead telecommunications fiber line within the existing public Right-of-Way along the north side of present Elk Creek Road with a crossing under Elk Creek Road at approximately Station 12+50 of present Elk Creek Road. This crossing branches out to an additional underground telecommunications fiber line between West Hills View Drive and East Hills View Drive. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

(9) City of Piedmont
PO Box 101
Piedmont, SD 57769
CONTACT: PHIL ANDERSON, CELL #605-787-5886

The Company has Underground water lines located within existing Right-of-Way along the west side of Sturgis Road through the City of Piedmont. As the Company's facilities are in existing public Right-of-Way, any relocation/adjustment necessary to accommodate the highway construction will be accomplished at no cost to the State and performed in coordination with the highway construction.

The requirements relating to Cooperation Between Contractors, as set forth in Section 5.7 of the Standards Specifications for Roads and Bridges, 2015 edition, shall prevail throughout the limits of this project.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
PRICE SCHEDULE FOR MISCELLANEOUS ITEMS

FEBRUARY 18, 2026

Delete the Flagging and Pilot Car rows from the table in Section 4.4 and replace them with the following:

Specification Section Number	Specification Section Name	Item Name	Price per Item
634.5	Temporary Traffic Control	Flagging	$43.36/Hour
634.5	Temporary Traffic Control	Pilot Car	$58.77/Hour

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR AMERICAN SECURITY DRONE ACT

DECEMBER 15, 2025

By submitting a bid proposal for this contract, the bidder certifies and agrees the following information is correct for the bidder and all subcontractors (all tiers):

> The bidder understands and acknowledges the American Security Drone Act (ASDA), Pub. L. No. 118-31, §§ 1821-32 (41 U.S.C. § 3901 note) (2023) and the United States Office of Management and Budget memorandum M-26-02. The bidder certifies its performance of work will comply with the ASDA.

The Contractor will maintain all records and documents pertinent to the requirements for not less than five (5) years from Final Acceptance by the Department. The Contractor will furnish or make available copies of these records and documents for inspection and verification by the Department and FHWA upon request.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
STEEL BEAM GUARDRAIL
AASHTO M 180 DESIGNATION

OCTOBER 1, 2025

Section 630.2 B. – Delete and replace with the following:

B. Beam Guardrail:

For all projects let prior to January 1, 2027 the following shall apply:

Beam guardrail will conform to AASHTO M 180-18, Type I, or AASHTO M 180-23, Type I, unless the plans specify another type.

For all projects let January 1, 2027 and after the following shall apply:

Beam guardrail will conform to the most recent, at the time of the letting, version of AASHTO M 180, Type I, unless the plans specify another type.

Section 630.2 C. – Delete and replace with the following:

C. Bolts, Nuts, and Washers:

For all projects let prior to January 1, 2027 the following shall apply:

Bolts, nuts, and washers will be as specified in AASHTO M 180-18 or AASHTO M180-23.

For all projects let January 1, 2027 and after the following shall apply:

Bolts, nuts, and washers will be as specified in the most recent, at the time of the letting, version of AASHTO M 180.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
ACKNOWLEDGEMENT AND CERTIFICATION REGARDING
ARTICLE 3, SECTION 12
OF THE SOUTH DAKOTA CONSTITUTION

AUGUST 24, 2023

In accordance with the State of South Dakota Office of the Governor Executive Order 2023-13, the following will apply to all contracts:

The Contractor acknowledges and certifies that the following information is correct:

CERTIFICATION OF NO STATE LEGISLATOR INTEREST:

Contractor (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to this contract. By signing this contract, Contractor hereby certifies that this contract is not made in violation of the South Dakota Constitution Article 3, Section 12.

It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the Department to terminate the contract.

The Contractor further agrees to provide immediate written notice to the Department if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

* * * * *

FUEL ADJUSTMENT AFFIDAVIT

Project Number ____
PCN ____
County ____

For projects let using the SDEBS) and in accordance with Section 9.10, the bidder is not required to notify the Department at the time of submitting bids whether the Contractor will or will not participate in the fuel cost adjustment program. Prior to execution of the contract, the successful bidder must submit this completed form to the Department for approval. The Fuel Adjustment Affidavit will include the anticipated fuel cost of subcontractors.

Does your company elect to participate in a fuel adjustment for this contract for the fuels that do not have a fixed price? No adjustments in fuel prices will be made if "No" is checked.

☐ Yes ☐ No

If yes, provide the total dollars for each of the applicable fuels. No adjustments in fuel price will be made for the fuel types that are left blank or completed with a $0.00 value.

Diesel (x) $________________________

Unleaded (y) $______________________

Burner Fuel (z) $____________________ Type of Burner Fuel Used: ________________________

Sum (x + y + z) = $_______________________

Note: The sum of the x, y, and z must not exceed 15% of the original contract amount.

The following must be completed regardless of whether the Contractor elects to participate in the fuel adjustment affidavit

Under the penalty of law for perjury or falsification, the undersigned, _____________________________,
(Printed Name)

___________________________ of ____,
(Title) *(Contractor)*

hereby certifies that the documentation is submitted in good faith, that the information provided is accurate and complete to the best of their knowledge and belief, and that the monetary amount identified accurately reflects the cost for fuel, and that they are duly authorized to certify the above documentation on behalf of the company.

I hereby agree that the Department or its authorized representative will have the right to examine and copy all Contractor records, documents, work sheets, bid sheets, and other data pertinent to the justification of the fuel costs shown above.

Dated ______________ Signature ____

Notarization is required only when the Contractor elects to participate in the fuel adjustment affidavit

Subscribed and sworn before me this _____ day of ____________ , 20___.

____________________________________ ________________________________
Notary Public *My Commission Expires*

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

STANDARD TITLE VI / NONDISCRIMINATION ASSURANCES APPENDIX A & E

MARCH 1, 2016

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations**: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination**: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports**: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   a. withholding payments to the contractor under the contract until the contractor complies; and/or
   b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions**: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or

is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

****

SPECIAL PROVISION FOR EEO AFFIRMATIVE ACTION REQUIREMENTS ON FEDERAL AND FEDERAL-AID CONSTRUCTION CONTRACTS

FEBRUARY 5, 2024

Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246)

1. The Offeror's or Bidder's attention is called to the “Equal Opportunity Clause” and the “Standard Federal Equal Employment Specifications” set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade

Aurora	0.8%	Fall River	7.9%	Marshall	1.3%
Beadle	0.8%	Faulk	1.3%	Meade	3.4%
Bennett	7.9%	Grant	1.3%	Mellette	7.9%
Bon Homme	1.2%	Gregory	0.8%	Miner	0.8%
Brookings	0.8%	Haakon	7.9%	Minnehaha	1.2%
Brown	1.3%	Hamlin	1.3%	Moody	0.8%
Brule	0.8%	Hand	0.8%	Oglala Lakota	7.9%
Buffalo	7.9%	Hanson	0.8%	Pennington	3.4%
Butte	7.9%	Harding	7.9%	Perkins	7.9%
Campbell	7.9%	Hughes	7.9%	Potter	7.9%
Charles Mix	0.8%	Hutchinson	0.8%	Roberts	1.3%
Clark	1.3%	Hyde	7.9%	Sanborn	0.8%
Clay	1.2%	Jackson	7.9%	Spink	1.3%
Codington	1.3%	Jerauld	0.8%	Stanley	7.9%
Corson	7.9%	Jones	7.9%	Sully	7.9%
Custer	7.9%	Kingsbury	0.8%	Todd	7.9%
Davison	0.8%	Lake	0.8%	Tripp	7.9%
Day	1.3%	Lawrence	7.9%	Turner	0.8%
Deuel	1.3%	Lincoln	0.8%	Union	1.2%
Dewey	7.9%	Lyman	7.9%	Walworth	7.9%
Douglas	0.8%	McCook	0.8%	Yankton	1.2%
Edmunds	1.3%	McPherson	1.3%	Ziebach	7.9%

Goals for female participation in each trade

Statewide 6.9%

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in [41 CFR part 60–4] shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in [41 CFR 60–4.3(a)], and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in [41 CFR part 60–4]. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the “covered area” is shown by county designation on the Title Sheet of the plans.

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:

a. “Covered area” means the geographical area described in the solicitation from which this contract resulted;

b. “Director” means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. “Employer identification number” means the Federal Social Security number used on the Employer’s Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. “Minority” includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60–4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall

document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

D. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60–3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the

Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60–4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

*****

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR
REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS
FHWA 1273 (OCTOBER 23, 2023)

OCTOBER 18, 2023

The following are amendments to the above contract provisions.

Section I.4.

Delete this section and replace with the following:

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a Federal-aid construction project unless it is labor performed by convicts who are on parole, supervised release, or probation.

Section IV.

Delete the first three sentences of the first paragraph and replace with the following:

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway and to all portions of Transportation Alternatives Program (TAP) funded projects.

Section IV.3.b.(1)

Delete this section and replace with the following:

The Contractor and each related subcontractor must submit weekly, for each week in which any contract work is performed, an electronic certified weekly payroll report. The Contractor is responsible for the submission of certified payroll reports by all subcontractors. The payroll report must be submitted electronically to the Elation System website. The Contractor must submit a legally valid electronic signature. The Elation System website can be accessed by logging onto the State of South Dakota's single sign-on website at https://mysd.sd.gov/ or can also be accessed at https://elationsys.com/. First time users will need to use the Promotion Code SDDOT-19. The payroll report must be submitted within fourteen (14) calendar days after the end of the workweek.

Section IV.3.b.(2)

Delete the third sentence.

Section IV.3.b.(3)

Delete the first paragraph and replace with the following:

Each certified weekly payroll report must include the most recent South Dakota Department of Transportation (SDDOT) Statement of Compliance Form, signed by the Contractor or related subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract. The Instructions for the SDDOT Statement of Compliance Form are found at https://dot.sd.gov/doing-business/contractors/labor-compliance/certified-payrolls-let-after-6/5/19. The SDDOT will not accept any payroll report which does not include the most recent SDDOT Statement of Compliance Form. The SDDOT Statement of Compliance Form must certify the following:

Section IV.3.b.(4)

Delete this paragraph and replace with the following:

The weekly submission of a properly executed SDDOT Statement of Compliance Form shall satisfy the requirement for submission of the "Statement of Compliance Form" required by paragraph 3.b.(3) of this section.

Section IV.4.a.(1)

Delete the first sentence and replace with the following:

Apprentices will be permitted to work at less than the predetermined rate for the work they perform, but not less than the Common Laborer wage rate contained in the bid documents, when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA.

* * * * *

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

> "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to *DBAconformance@dol.gov*. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to *DBAconformance@dol.gov*, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH–347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 will satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING
MINIMUM WAGE ON FEDERAL-AID PROJECTS

OCTOBER 24, 2019

This proposal contains a copy of the most recent United States Department of Labor (USDOL) Davis-Bacon Act Wage Decision.

The Contractor and each related subcontractor will pay their respective employees not less than the USDOL minimum wage for each work classification an employee actually performs at the site of the work.

The Contractor and each related subcontractor must submit weekly, for each week in which any contract work is performed, an electronic certified weekly payroll report. The payroll report must be submitted electronically to the Elation System website. The Elation System website can be accessed by logging onto the State of South Dakota's single sign-on website at https://mysd.sd.gov/ or can also be accessed at https://elationsys.com/. First time users will need to use the Promotion Code SDDOT-19. The payroll report must be submitted within fourteen (14) calendar days after the end of the workweek. The payroll reports submitted shall set out accurately and completely all the information required to be maintained under 29 C.F.R. 5.5(a)(3)(i). Weekly transmittals must include an individually identifying number for each employee, such as the last four digits of the employee's social security number, but these weekly transmittals must not include full social security numbers or home addresses. The Contractor is responsible for the submission of certified payroll reports by all subcontractors.

Each certified weekly payroll report must include the most recent South Dakota Department of Transportation (SDDOT) Statement of Compliance Form, signed by the Contractor or related subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract. The Instructions for the SDDOT Statement of Compliance Form are found at https://dot.sd.gov/doing-business/contractors/labor-compliance/certified-payrolls-let-after-6/5/19. The SDDOT will not accept any payroll report which does not include the most recent SDDOT Statement of Compliance Form.

* * * * *

Wage and Hour Division
U.S. Department of Labor (DOL)
200 Constitution Avenue, N.W.
Washington, DC 20210

Davis-Bacon Act Wage Decision
State: South Dakota
Construction Types: Heavy and Highway
Counties: South Dakota Statewide

Agency: U.S. DOL
Wage Decision Number: SD20260001 SD1
Counties: SD Statewide
Wage Decision Date: 01/30/2026 (Mod-0)

***SASD2025-001 12/12/2024**

	Rates	Fringes
LABORERS		
Group GL1		
Air Tool Operator; Common Laborer; Landscape Worker; Flagger; Pilot Car Driver; Trucks under 26,000 GVW; Materials Checker, Special Surface Finish Applicator	26.93	0.00
Group GL2		
Mechanic Tender; Pipe Layer (except culvert); Form Builder Tender	26.96	0.00
Group GL3		
Asphalt Plant Tender; Pile Driver Leadsman; Form Setter; Oiler/Greaser	28.97	0.00
Group GL5		
Carpenter; Form Builder	31.94	0.00
Group GL6		
Concrete Finisher; Grade Checker	29.81	0.00
POWER EQUIPMENT OPERATORS		
Group G01		
Tractor (farm type with attachments, including loaders but excluding Backhoe); Self Propelled Broom; Concrete Routing Machine; Paver Feeder; Pugmill; Skid Steer	30.16	0.00
Group G02		
Concrete Paving Cure Machine; Concrete Paving Joint Sealer; Bull Dozer 80 HP or less; Front End Loader 1.25 CY or less; Self Propelled Roller (except Hot Mix); Sheepsfoot/Pneumatic Roller; Pneumatic Tired Tractor or Crawler (includes Water Wagon and Power Spray units); Wagon Drill (Air Trac – Trac Drill); Truck Type Auger; Concrete Paving Saw; Concrete Grooving	31.73	0.00
Group G03		
Asphalt Distributor; Bull Dozer over 80 HP; Backhoes/ Excavators 20 tons or less; Crusher (may include internal screening plant); Front End Loader over 1.25 CY; Rough Motor Grader; Self Propelled Hot Mix Roller; Push or Pull Tractor; Off-Highway Haul Trucks; Material Spreader or Placer; Rumble Strip Machine; Pavement Marking Grinding Equipment	31.56	0.00
Group G04		
Concrete Paving Finishing Machine; Asphalt Paving Machine Screed; Asphalt Paving Machine; Cranes/Derricks/ Draglines/Pile Drivers/Shovels 30 to 50 tons; Backhoes/Excavators 21 to 40 tons; Maintenance Mechanic; Scrapers (wheel or tracks); Concrete Pump Truck	32.49	0.00
Group G05		
Asphalt Plant; Concrete Batch Plant; Backhoes/Excavators over 40 Tons; Cranes/ Derricks/Draglines/Pile Drivers/Shovels over 50 tons; Heavy Duty Mechanic; Finish Motor Grader; Automatic Fine Grader; Milling Machine; Bridge Welder	34.96	8.36
TRUCK DRIVERS		
Group GT1		
Tandem Truck without trailer or pup; Single Axle Truck over 26,000 GVW with Trailer	30.01	0.00
Group GT2		
Semi-Tractor and Trailer; Tandem Truck with Pup or Trailer	32.07	8.42

Wage and Hour Division
U.S. Department of Labor (DOL)
200 Constitution Avenue, N.W.
Washington, DC 20210

Davis-Bacon Act Wage Decision
State: South Dakota
Construction Types: Heavy and Highway
Counties: South Dakota Statewide

Agency:	U.S. DOL
Wage Decision Number:	**SD20260001 SD1**
Counties:	SD Statewide
Wage Decision Date:	**01/30/2026 (Mod-0)**

***SASD2025-001 12/12/2024**

	Rates	Fringes
ELECTRICIANS		
Group E01		
Electrician	35.43	8.69
IRON WORKERS		
Group I01		
Position and secure steel bars or mesh in concrete for reinforcement, steel tiers, saw. Carrying, placing, tying, reinforcing steel under supervision, cutting. Placing steel or prefabricated reinforcement assembly for placement in concrete forms.	26.93	0.00
Group I02		
Erect, place and join steel girders, columns, structural framework, air wrenches, spud bars, grinders, drills, sledgehammers, tag lines, plumb bobs, lasers, levels, bolts, wire, welds, shears, rod-bending machines, torches.	28.97	0.00
PAINTERS		
Group P01		
Line striping machine, paint trucks, epoxy trucks, thermoplastic trucks, cold applied plastic/and preformed thermoplastic pavement marking equipment. Operate pavement marking equipment to include epoxies, paints, primers, sealers, cold applied tapes, thermoplastics used for traffic marking purposes.	26.96	0.00
Group P02		
Painting or protective coating bridges, apply varnish, anti-rust materials, prepare steel or other surfaces with primer or sandblasting, paints structural framework of bridges, guardrails and cables of bridges and other structures.	29.81	0.00

WELDERS – Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award, pursuant to 29 CFR 5.5(a)(1)(ii); contractors are responsible for requesting SDDOT to secure necessary additional work classifications and rates.

The "SA" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R. 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the "SA" identifier took effect under state law in the state from which the rates were adopted.

For SDDOT Defined Work Classifications, please visit: https://dot.sd.gov/doing-business/contractors/labor-compliance

A COPY OF THIS DOCUMENT, COLORED **GREEN**, **MUST** BE CONSPICUOUSLY POSTED AT THE PROJECT SITE

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

   a) a survey underlying a wage determination
   b) an existing published wage determination
   c) an initial WHD letter setting forth a position on a wage determination matter
   d) an initial conformance (additional classification and rate) determination

   On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

   Branch of Wage Surveys
   Wage and Hour Division
   U.S. Department of Labor
   200 Constitution Avenue, N.W.
   Washington, DC 20210

   Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

   Branch of Construction Wage Determinations
   Wage and Hour Division
   U.S. Department of Labor
   200 Constitution Avenue, N.W.
   Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

   Wage and Hour Administrator
   U.S. Department of Labor
   200 Constitution Avenue, N.W.
   Washington, DC 20210

   The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

   Administrative Review Board
   U.S. Department of Labor
   200 Constitution Avenue, N.W.
   Washington, DC 20210.

END OF GENERAL DECISION

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING STORMWATER DISCHARGES TO WATERS OF THE STATE

NOVEMBER 5, 2025

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota (ARSD), Article 74:52, the State of South Dakota has been issued Permit No. SDR10#### "GENERAL PERMIT AUTHORIZING STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES". This permit authorizes the discharge of storm water in accordance with the conditions and requirements set forth in the permit.

The Contractor, by signing the CONTRACTOR AUTHORIZATION FORM and submitting a bid or proposal, certifies the following:

> "I certify under penalty of law that I understand and will comply with the terms and conditions of the Surface Water Discharge General Permit for Stormwater Discharges Associated with Construction Activities for the project identified above."

A copy of the full version of the General Permit Authorizing Stormwater Discharges Associated with Construction Activities, dated 11/01/2023, must be available on the job site. The permit is available for downloading and printing from the SD DANR website:

https://danr.sd.gov/OfficeOfWater/SurfaceWaterQuality/stormwater/StormWaterConstruction.aspx

The Contractor may also obtain a printed copy of the permit from the SDDOT Project Development office or from the SDDOT Area Office assigned to this project.

* * * * *