



DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS,
PROPOSAL, SPECIAL PROVISIONS,
CONTRACT AND CONTRACT BOND
FOR

STRUCTURE (186' STEEL GIRDER & 340' STEEL GIRDER),
APPROACH GRADING & ASPHALT CONCRETE SURFACING

FEDERAL

PROJECT NO.

P-PT 0011(145)83
(PCN 05V6)

SD HIGHWAY 11

IN MINNEHAHA 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.

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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.

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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 December 10, 2025, 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):

SUBSTANTIAL COMPLETION: **NOVEMBER 20, 2026**

FIELD WORK COMPLETION: **JUNE 4, 2027**

The project category is Category II

The project type is Structural

The geographic zone is Zone 6

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

WORK TYPE FOR THIS PROJECT IS: **WORK TYPE 1 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.

Harry Johnston
5316 W 60th St N
Sioux Falls, SD 57107
Phone: 605/367-5680

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 of not less than \$10,000 and not more than \$100,000 for each such failure.

REV 11/7/25

INDEX OF SPECIAL PROVISIONS

PROJECT NUMBER(S): P-PT 0011(145)83 PCN: 05V6

TYPE OF WORK: STRUCTURE (186' STEEL GIRDER & 340' STEEL GIRDER), APPROACH GRADING & ASPHALT CONCRETE SURFACING

COUNTY: MINNEHAHA

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.

Sara Garbe is the official in charge of the Sioux Falls Career Center for Minnehaha County.

THE FOLLOWING ITEMS ARE INCLUDED IN THIS PROPOSAL FORM:

Special Provision for Contract Time, dated 11/4/25.

Special Provision Regarding Right of Entry/Work Limits, dated 11/14/25.

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

Special Provision Regarding Restricted Work at Drainage Crossings or Wetlands, dated 11/10/25.

Special Provision for Construction Practices in Streams Inhabited by the Topeka Shiner, dated 8/29/18.

Agreement to sell Materials (Leo D. Heggen and Joanne B Heggen, and Sweetman Const Co.)

Special Provision for Flexible Pavement Smoothness, dated 5/20/21.

Special Provision for Contractor Staking, dated 5/15/25.

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

Special Provision for Stainless Reinforcing Steel, dated 11/13/25.

List of Utilities.

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 SD20230032, dated 3/10/23.

Special Provision Regarding Storm Water Discharge, dated 5/8/18.

General Permit for Storm Water Discharges Associated with Construction Activities, dated 4/1/18

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

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
CONTRACT TIME**

**PROJECT P-PT 0011(145)83, PCN 05V6
MINNEHAHA COUNTY**

NOVEMBER 4, 2025

Substantial Completion

The Contractor will substantially complete the project by the November 20, 2026 substantial completion date.

The Department will consider the work substantially complete when all lanes are opened to unimpeded traffic on the bottom 2 lifts of asphalt and all work is completed except the following:

Top lift of asphalt, pavement markings, flush seal, rumble strips, and any final erosion control measures.

The Engineer, in the Engineer's sole discretion, will determine when the project is substantially complete.

Field Work Completion

The Contractor will complete the project by the June 4, 2027 field work completion date.

258th St Working Day Count

The Contractor will complete all work required to close 258th St within 70 working days. The Department will begin to count working days when the Contractor begins any work that requires closing 258th St. The Department will continue to count working days until the Contractor returns unimpeded traffic to at least an interim gravel surface and restores the detour that is utilizing 258th St. The Department will count working days in accordance with Section 8.7 C.

If the Contractor does not complete the work within the working day completion requirement, the Department will make a disincentive assessment in the amount of \$1000 per working day. 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 count working days in accordance with Section 8.7 C.

Failure to Complete on Time

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 C.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION(S)
REGARDING
RIGHT OF ENTRY/WORK LIMITS**

**P-PT 0011(145)83, PCN 05V6
MINNEHAHA COUNTY**

NOVEMBER 14, 2025

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.

<u>PARCEL</u>	<u>OWNER</u>	<u>ANTICIPATED POSSESSION DATE</u>
1, 1A, 4, 4A, 4B, 4X, 5, 5A	LJH Land LLLP	12/10/25
2, 2A	Leo & Joanne Heggen Living Trust	12/10/25

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**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 RESPONSIBILITIES

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 journeymen (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 RESTRICTED WORK AT DRAINAGE CROSSINGS OR
WETLANDS**

**Project # P-PT 0011(145)83, Minnehaha County, PCN 05V6
SD11 - Fm 258th St to 257th St
Grading, AC Surfacing, Replace Str Bridge**

November 10, 2025

This project includes pending approval of a permit application filed with US Army Corps of Engineers (USACE) SD Regulatory Office. The USACE issues nationwide permits to authorize construction activities within waters of the United States as regulated by Section 404 of the Clean Water Act and USACE Permit Regulations 33 CFR 320-332. The permit application for this project was submitted to the USACE on October 27th, 2025.

Work will be prohibited at the drainage crossings or wetlands shown below until the Department notifies the contractor that a permit has been authorized and that work may proceed in the areas designated below. At the time of notification, the Department will include the general conditions and, if necessary, special conditions that must be complied with to in order for the authorization to be valid.

Drainage Crossing(s) Permanent:

<i>Station</i>	<i>Stream Name</i>
115+02 – 119+00	Split Rock Creek
128+50 – 130+50:	West Pipestone Creek

It is anticipated that authorization will be received by December 12th, 2025 (32 days) and will be valid until March 18, 2026. Otherwise, if the lack of permit causes a delay or impact to the contractor's schedule, the contractor shall notify the Engineer immediately so contract time can be recorded and charged in accordance with the specifications and provisions set forth in this contract.

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
CONSTRUCTION PRACTICES IN STREAMS
INHABITED BY THE TOPEKA SHINER**

AUGUST 29, 2018

I. DESCRIPTION

This project crosses a stream inhabited by the Topeka shiner, a federally endangered species. The Contractor shall implement the following conditions to minimize the impact of a stream crossing construction on the Topeka shiner. Failure to implement the following conditions may result in violation of the Endangered Species Act.

II. MATERIALS (None Required)

III. CONSTRUCTION REQUIREMENTS

A. GENERAL CONSTRUCTION

The Contractor shall not perform construction activities within the stream, along the stream banks, and in areas that drain into the stream unless comprehensive and effective best management practices (BMPs), that will prevent sediment, fuels, chemicals, concrete wash water, and other pollutants from entering into the stream, are in place and functioning properly. The Contractor shall maintain erosion and sediment controls in good working condition until the Contractor restores vegetation to 70% of the pre-disturbance condition. Erosion and sediment controls implemented shall be those appropriate for the specific site conditions. The Contractor shall not place fill material below the ordinary high water elevation except as directed by the plans or as allowed by the United States Army Corps of Engineers 404 permit.

B. MEASUREMENT OF STREAM TURBIDITY

The Contractor shall not allow construction activities that produce sediment discharges that increase stream turbidity (i.e., water clarity) by more than 50 Nephelometric Turbidity Units (NTU) over the background turbidity level. The Contractor shall cease all construction methods that produce sediment discharges exceeding this turbidity standard and may resume only after the Engineer has approved an acceptable plan. The Contractor shall immediately notify the Engineer if the Contractor suspects that stream turbidity has been

increased. The Engineer will monitor the turbidity during all stages of the project.

- 1. Turbidity Meter and Maintenance:** The Engineer will take measurements with a Global Water WQ 770 turbidity meter or equivalent. The Engineer will maintain and operate the turbidity meters in accordance with manufacturer specifications and technical manual.
- 2. Definition of Turbidity Sample:** The definition of a turbidity sample is the average of five measurements taken at a sampling location.
- 3. Obtaining a Turbidity Sample:** The Engineer will submerge the sensor of the turbidity meter in the stream and allow the sensor to run continuously for at least one minute before taking the first turbidity measurement. The Engineer will take subsequent turbidity measurements at thirty second intervals until five measurements have been obtained. The Engineer will take turbidity measurements in accordance with manufacturer specifications and technical manual.
- 4. Location of Turbidity Samples:** The Engineer will measure turbidity at two sampling locations. The Engineer will take a control sample from a point 100 feet upstream of the work area to determine the background turbidity level. The Engineer will take another sample from a point 100 feet downstream of the work area. The Engineer may modify the location of turbidity samples at the Engineers discretion depending on constraints such as easement limits. The Engineer will measure turbidity at the midpoint of the stream.
- 5. Documentation of Turbidity Sample Measurements:** The Engineer will record turbidity data on a Stream Turbidity Inspection Form (DOT-283) and be delivered to the SDDOT Environmental Office within 14 calendar days of testing. Turbidity samples that indicate a 50 NTU increase over the background turbidity level shall be immediately reported to the Department's Biologist (Biologist).
- 6. Frequency of Turbidity Measurements:** Turbidity measurements shall be taken in conjunction with normal storm water inspections. Turbidity measurements shall also be taken at the Engineer's discretion during construction activities that may result in increased turbidity (e.g., placing riprap or installing a coffer dam).

C. DE-WATERING, ISOLATED WORK AREAS, AND WATER EXTRACTION

If fish are present or suspected to be present within a work area isolated from the remaining water body, the Department will not allow construction activities within that enclosed area until the Biologist has moved the fish from the enclosed area to the greatest extent possible considering site conditions. The

Biologist shall be notified prior to the installation of any temporary water barriers that may isolate stream segments or the dewatering of any stream segments. The Biologist shall be notified if stream discharge reenters any areas previously cleared of fish.

The Contractor shall use fish screens on all pump intakes that may be exposed to fishes. The Contractor shall size pump intake screens to prevent fish from being entrained into the pump intake or from being impinged on the intake screen. Screen mesh shall not have openings that exceed 1/8" measured diagonally across the opening. The surface area of fish screens shall be at least 18 ft². The Biologist shall be contacted to determine the appropriate surface area for fish screens used on pumps extracting water at a rate exceeding 500 gallons per minute.

The extraction of water for use during construction from streams will not be permitted unless approved by the Biologist. The Contractor shall provide the Biologist with the estimated volume of water the Contractor will extract, the duration (timeframe) of the extraction, the rate at which the extraction of water will occur, and the location(s) where the extraction of water will occur.

D. TEMPORARY WORKS (FALSEWORK AND WORK PLATFORMS)

Falsework or work platforms shall conform to Section 423 of the specifications and any applicable requirements of this provision.

Temporary piling shall be cutoff at or driven flush with the streambed, or extracted in a manner that minimizes sedimentation as much as possible, when no longer needed.

The Contractor shall consider how to install and remove falsework or work platforms when preparing the construction plan and include any special construction methods or sequencing that may be required to protect the Topeka shiner.

Design of temporary works shall be as specified in Section 423 of the specifications.

E. REMOVAL OF STRUCTURES & OBSTRUCTIONS

Removal of structures and obstructions shall conform to Section 110 of the specifications and any applicable requirements of this provision.

Construction, demolition, and removal operations conducted over or in the vicinity of the stream shall be controlled to prevent materials from falling in the waterway. The Contractor shall promptly remove any materials that fall into the

waterway or into areas below the ordinary high water elevation by hand or with equipment located above the stream bank at the discretion of the Engineer.

F. TEMPORARY DIVERSION CHANNELS

The Contractor shall construct temporary diversion channels constructed according to Standard Plate number 734.30 to approximately the existing channel slope, roughness, and width to allow upstream fish movement during normal stream discharges.

G. PRECONSTRUCTION MEETING AND CONTRACTOR WORK PLAN

The Contractor shall notify the Biologist of the preconstruction meeting. The Biologist will review the conditions of this provision and all environmental permits. The Contractor shall provide an estimated date at the pre-construction meeting when the Biologist needs to be on site to conduct fish transfer. The Contractor shall notify the Engineer 2 business days before the Biologist needs to be on site.

The Contractor shall submit a detailed Contractor work plan prior to the preconstruction meeting to the Engineer for Biologist approval. The Contractor work plan shall include products, materials, and methods of construction and removal for temporary water barriers, cofferdams, and diversion channels including de-watering, handling, storage, and disposal of excavated material and pumped effluent. The Contractor work plan shall include all necessary information to provide assurance that the Contractor has adequately addressed the conditions of this provision. Work shall not proceed without approval of the Contractor work plan by the Biologist.

IV. METHOD OF MEASUREMENT

- A. Temporary Water Barriers:** The Department will measure temporary water barriers to the nearest foot.
- B. Cofferdams:** The Department will measure cofferdams in accordance with Section 423.4 of the specifications.
- C. Dewatering:** The Department will not measure dewatering.
- D. Temporary Works:** The Department will measure for temporary works in accordance with Section 423.4 of the specifications.
- E. Removal of Structures and Obstructions:** The Department will measure removal of structures and obstructions in accordance with Section 110.4 of the specifications.

- F. Temporary Diversion Channel for Box Culverts:** The Department will measure temporary diversion channel for box culverts in accordance with Standard Plate number 734.30.
- G. Temporary Stream Diversion for Box Culvert Extensions:** The Department will measure temporary stream diversions for box culvert extensions on a per each basis.
- H. Temporary Stream Diversion for Pipe Culvert Extensions:** The Department will measure temporary stream diversions for pipe culvert extensions on a per each basis.
- I. Erosion Control for Box Culvert Extension:** The Department will not measure for erosion and sediment control for box culvert extensions.
- J. Erosion Control for Pipe Culvert Extension:** The Department will not measure for erosion and sediment control for pipe culvert extensions.
- K. Erosion Control for Bridge:** The Department will not measure for erosion and sediment control for bridge.

V. BASIS OF PAYMENT

- A. Temporary Water Barriers:** The Department will pay for temporary water barriers at the contract unit price per foot. The Department will make payment for this bid item only once at each location, regardless of the number of times the barrier is changed or moved at that location. Payment will be full compensation for labor, equipment, materials, and all incidentals necessary for constructing the temporary water barrier.
- B. Cofferdams:** Payment for cofferdams shall be as specified in Section 423.5 of the specifications.
- C. Dewatering:** The Department will not pay for dewatering. All costs associated with dewatering shall be incidental to the other bid items.
- D. Temporary Works:** Payment for temporary works shall be as specified in Section 423.5 of the specifications.
- E. Removal of Structures and Obstructions:** Payment for removal of structures and obstructions shall be as specified in Section 110.5 of the specifications.
- F. Temporary Diversion Channel for Box Culverts and Pipe:** Payment for temporary diversion channels for box culverts shall be in accordance with Standard Plate number 734.30.

- G. Temporary Stream Diversion for Box Culvert Extensions:** The Department will pay for temporary stream diversion for box culvert extensions at the contract unit price per each. The Department will make payment for this bid item only once, regardless of the number of times the diversion is changed or moved at this site. Payment will be full compensation for labor, equipment, materials, and all incidentals necessary for constructing the temporary diversion.
- H. Temporary Stream Diversion for Pipe Culvert Extensions:** The Department will pay for temporary stream diversion for pipe culvert extensions at the contract unit price per each. The Department will make payment for this bid item only once, regardless of the number of times the diversion is changed or moved at this site. Payment will be full compensation for labor, equipment, materials, and all incidentals necessary for constructing the temporary diversion.
- I. Erosion Control for Box Culvert Extension:** The Department will pay for erosion control for box culvert extension at the contract lump sum price. The contract lump sum price shall be full compensation for all labor, equipment, materials, and incidentals necessary to install and maintain erosion and sediment control measures for box culvert extensions. The Department will measure and pay for erosion control measures not shown on the approved Construction Plan under their respective bid items (i.e. silt fence, erosion bale, etc.).
- J. Erosion Control for Pipe Culvert Extension:** The Department will pay for erosion control for pipe culvert extension at the contract lump sum price. The contract lump sum price shall be full compensation for all labor, equipment, materials, and incidentals necessary to install and maintain erosion and sediment control measures for pipe culvert extensions. The Department will measure and pay for erosion control measures not shown on the approved Construction Plan under their respective bid items (i.e. silt fence, erosion bale, etc.).
- K. Erosion Control for Bridge:** The Department will pay for erosion control for bridge at the contract lump sum price. The contract lump sum price will be full compensation for all labor, equipment, materials, and incidentals necessary to install and maintain erosion and sediment control measures for necessary for bridge construction. The Department will measure and pay for erosion control measures not shown on the approved Construction under their respective bid items (i.e. silt fence, erosion bale, etc.).

* * * * *

**STATE OF SOUTH DAKOTA
AGREEMENT TO SELL MATERIALS**

DOT-44B
(08/2018)

Leo D. Heggen and Joanne B. Heggen, referred to in this Agreement as the "Owner" (whether one or more), 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 **Minnehaha County, South Dakota**, more particularly described as follows, to wit:

The East Half of the Northeast Quarter (E1/2 NE1/4) of Section 15, except County Auditor's Lot H-1 and except County Auditor's Lot H-2 in the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4); all in Township 102 North, Range 48 West of the 5th P.M., Minnehaha County, South Dakota.

This Agreement is intended to allow the removal of soil.

The term of this Agreement will be from **May 17, 2024**, to the completion of **Project: P-PT 0011(145)83. PCN 05V6. Minnehaha County. South Dakota**

The Owner agrees that the State, and any and all 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 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 the Contractor, for material removed from said real property at a rate of:

\$.85 (Eighty-five 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 cropland.
2. Topsoil, to be stockpiled separately from the rest of the overburden, will be considered to consist of the upper 8 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 4:1 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 \$ 494.00 per acre per year for 1 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 \$ 765.00 per acre. This payment will only apply if a crop is planted or present at the borrow site before topsoil removal operations commence.
7. Seeding Options: Circle one of A, B, or C (Not applicable) (**Circle One**)
 - A. The State will seed, mulch, and fertilize the disturbed area to permanent seed mixtures as shown in the plans; or
 - B. 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 N/A per acre to cover cost of such re-vegetation; or
 - C** Not applicable.
8. Payment allocation and other conditions:
 - None

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

Owner(s):

Leo D. Heggen and Joanne B. Heggen

Leo D. Heggen
Leo D. Heggen

Joanne B. Heggen
Joanne B. Heggen
348251 258th St
Brandon, SD 57005
(605)354-3848

State of South Dakota
Department of Transportation

By: Tanner A. Fitz

Its: Chief Materials and Surfacing Engineer

Date: 1/10/2025

Approved as to form:

/s/ Dustin W. DeBoer

Special Assistant Attorney General

Its: Owners

Date: Oct 8 - 2024

ACKNOWLEDGMENT FOLLOWS

ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)

COUNTY OF Minnehaha :SS)

On this the 8th day of October, 2024, before me, Caleb M. Horstman a notary public, personally appeared Leo D. Heggen and Joanne B. Heggen, known to me or satisfactory proven to be the person(s) whose names is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

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

Caleb M. Horstman

Notary Public

(Notary Seal)

My Commission Expires: Feb. 14, 2029

STATE ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)

COUNTY OF HUGHES) :SS

On this the 10th day of January, 2025 before me, Cheri Bartlett, a notary public, personally appeared Tanner G. 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.



Cheri Bartlett

Notary Public

My Commission Expires: 7/28/2026

**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:

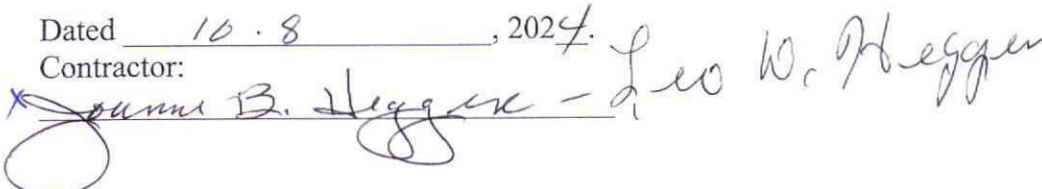
2.1 The Contractor understands Article 3, Section 12 of the South Dakota Constitution, has had the opportunity to seek independent legal advice if desired, and no Contracts between the Contractor and the State are made in contravention of the prohibition set forth in Article 3, Section 12.

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 10.8, 2024.

Contractor:

 Leo W. Heggen

By: _____

Printed Name: _____

Title: _____

**STATE OF SOUTH DAKOTA
AGREEMENT TO SELL MATERIALS**

DOT-44B
(08/2018)

Sweetman Const. Co., a corporation authorized to do business in the State of South Dakota, doing business as "Knife River – South Dakota," referred to in this Agreement as the "Owner" (whether one or more), 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 **Minnehaha County, South Dakota**, more particularly described as follows, to wit:

Southwest Quarter (SW1/4) of Section Fourteen (14), Township One Hundred Two (102) North, Range Forty-Eight (48), West of the 5th P.M. Minnehaha County, South Dakota

This Agreement is intended to allow the removal of Soil.

The term of this Agreement will be from **July 9, 2024**, to the completion of **Projects: P-PT 0011(145)83, PCN 05V6, Minnehaha County.**

State, and any and all 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 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 the 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 bare ground.
2. Topsoil, to be stockpiled separately from the rest of the overburden, will be considered to consist of the upper 8 inches of natural soil. Stockpiled topsoil will be left in the stockpile.
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 3:1 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 \$ N/A per acre per year for N/A 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. At the completion of borrow activities, the State will seed and mulch the disturbed area to cover crop if requested by the Owner.
8. Other conditions: None

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

Sweetman Const. Co. – DBA "Knife River – South
Dakota," Owner(s):

By: Andy Haas

Printed Name: Andy Haas

Its: Aggregate & Asphalt - General Manager

Date: July 22, 2024

(Corporate Seal)

State of South Dakota
Department of Transportation

By: Tanner M. Fitzke

Printed Name: TANNER G. FITZKE

Its: Chief Materials and Surfacing Engineer

Date: 1/10/2025

Approved as to Form:

/s/ Dustin W. DeBoer
Special Assistant Attorney General

ACKNOWLEDGMENTS FOLLOWS

ACKNOWLEDGMENT

STATE OF South Dakota)
)SS
COUNTY OF Minnehaha)

On this the 22 day of July, 2024, before me Heather Yungeberg, a notary public, personally appeared Andy Haas, who acknowledged himself/herself to be the General Manager, of Sweetman Const. Co., a corporation, and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as such officer.

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



Notary Public

My commission expires: 10/22/25



My Commission Expires
10/22/2025

STATE ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF HUGHES)

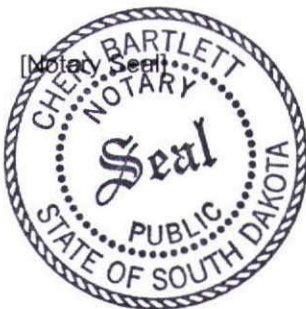
On this the 10th day of January, 2025, before me, Cheri Bartlett, a notary public, personally appeared Tanner G. Fitzer, Chief Materials and Surfacing Engineer of the State of South Dakota, Department of Transportation, known to me or satisfactorily proven to be the person described in the foregoing 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 Public

My Commission Expires: 7/28/2026



**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 August 29, 2024.
Contractor:

X Knife River

By: Andy Haas

Printed Name: Andy Haas

Title: Aggregate & Asphalt MM

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
FLEXIBLE PAVEMENT SMOOTHNESS**

**PROJECT P-PT 0011(145)83, PCN 05V6
MINNEHAHA COUNTY**

MAY 20, 2021

In Section 320.3 G of the specifications, delete the second and third sentences of the paragraph regarding checking the final lift with a 10-foot straightedge and replace with the following:

The pavement smoothness will be determined by profiling the finished surfaces of the mainline pavement. All finished bituminous surfaces will be profiled with the following conditions and exceptions:

A. Exclusions: Excluded from the profile testing are:

1. Bridge decks, approach slabs and a distance of 100 feet from the end of the bridge (or approach slab if applicable);
2. Ramps, acceleration lanes, deceleration lanes, turning lanes, and any lane less than 0.3 miles in length;
3. Side roads;
4. Shoulders and gore areas;
5. Driving lanes within 6 feet of existing curb and gutter sections (curb and gutter to remain in place);
6. Sections with a speed limit of less than 45 mph;
7. The first or last 100 feet of a pavement where the Contractor is not responsible for the adjoining in place pavement;
8. A distance of 100 feet from railroad crossings; and,
9. A distance of 200 feet before stop signs at an intersection.

On surfaces excluded from the profile testing, the Engineer will determine the pavement smoothness according to the following:

The surface of each lift will be free of waves and other irregularities. The final lift surface will be checked with a 10-foot straightedge. The variation of the surface from the straightedge between any two contact points will not exceed 1/4 inch.

- B. Profiler:** The Department will furnish and operate the profiler. The Department will measure and analyze the surface smoothness of the final roadway surface profile using the International Roughness Index (IRI) to the nearest 0.1 inch/mile. The Department will be using a profiler that meets ASTM E-950 Class I specifications.

The profiler will have the long and short wavelength filters set to 0 feet.

- C. Operation:** The Department will evaluate the surface smoothness on a lot basis. A lot is defined as a single paved lane, 12 feet wide, and 0.10 mile long. Pavement sections less than 0.10 mile long will be tested, the results will be combined with the previous adjacent lot, and the average IRI and price adjustment will be prorated. If the section is less than 0.10 mile long but at least 200 feet long and not adjacent to a previous lot, the average IRI and price adjustment for the section will be evaluated individually and prorated.

The Department will collect the profile data after the Contractor completes all AC paving required for profiling. If the project is constructed in phases, the Department may profile test a completed phase before the completion of subsequent phases.

If the Contractor does not complete the final lift of pavement before the seasonal limitation, the Department will collect profile data for all portions of the roadway paved through the final lift at the completion of construction for the season. The Department will collect profile data for the remaining pavement once the paving is completed.

The Contractor will not flush seal the final surface until the Contractor has completed all grinding and the Department has collected all profile data.

1. Profile Testing:

For scheduling purposes, the Contractor is responsible to contact the Materials and Surfacing Office at least 7 calendar days prior to the anticipated completion of work (phase of project or overall project) where profile testing is required. In addition, the Contractor will contact the Materials and Surfacing office at least 2 business days prior to the anticipated day of profile testing (phase of project or overall project) to schedule the agreed upon anticipated day of profile testing.

Prior to the anticipated day of profile testing, the Contractor will perform all work required prior to the Department performing the profile testing. The Contractor may continue sweeping the roadway any time, as needed, prior to profile testing.

The Department will perform the profile testing within 2 business days of the anticipated day of profile testing provided all of the following conditions are met:

- The Contractor has completed all AC paving in the area to be profile tested;
- The Contractor has cleaned the surface of debris and other obstructions and has completed necessary sweeping;
- The Contractor has placed necessary traffic control devices;
- The ambient air temperature is at least 40°F but not above 100°F; and,
- Rain and other weather conditions determined inclement by the Engineer are not present.

The Department will make one pass in each driving lane in the direction of traffic flow. One pass will consist of a profile being performed in each wheel path for each lane (one trace approximately 31 inches from centerline of the roadway and the other trace approximately 97 inches from centerline).

The Department will provide the Contractor profile testing results within 2 business days of completing the profile testing. The Department will identify and mark areas of localized roughness (ALR) that require corrective action.

- a. Evaluation:** The data collected by the Department will be evaluated by and remain the property of the Department. The average IRI for each lot will be determined by averaging the IRI values from the two wheel paths for each pass (lane) to the nearest 0.1 inch/mile. This average will be used to evaluate incentive/disincentive payment.

Incentive/disincentive payment schedule will be a fixed dollar amount per lot based on the average IRI and the total number of opportunities. The Department may define the total number of opportunities for a section of roadway in the plans. If the total number of opportunities is not defined in the plans, the following will apply:

An opportunity will be defined as a single paved lift of 1 inch or greater thickness, cold milling 1 inch or greater thickness, micro-milling 0.75 inch or greater thickness, cold in place recycle, process in place, surface preparation, or base material placed by contractor. The thickness of cold milling will be determined by what is specified in the plans. Each opportunity will be counted and added up to a total number of opportunities (1 opportunity, 2 opportunities, or 3 or more opportunities). Each project may have different sections with a varying number of opportunities. Class S wearing courses will be evaluated as 3 or more opportunities.

- b. Requirements:** The Department will use the FHWA Profile Viewing and Analysis (ProVAL) software to determine ALR. The Department will evaluate ALR using ProVAL's "Smoothness Assurance" analysis by calculating the mean roughness index (MRI) with a continuous short interval of 25 feet and a 250 mm filter.

The Engineer will assess ALR in accordance with Table 1 "ALR Monetary Deductions and Corrective Work Requirements." The Contractor will grind ALR which require corrective action to a MRI of less than 125 inches per mile in 25 feet.

Table 1
ALR Monetary Deductions and Corrective Grinding
Requirements

25 ft. Continuous MRI (Inches per mile)	Corrective Grinding or Monetary Deduction
140.0 or less	Acceptable
140.1 to 190.0	Corrective Grinding or \$10.00 per linear foot (12 foot wide)
190.1 to 220.0	Corrective Grinding or \$20.00 per linear foot (12 foot wide)
220.1 or greater	Corrective Grinding or \$100.00 per linear foot (12 foot wide)

For ALR of 220.0 or less, the Contractor may elect to perform corrective grinding in lieu of the monetary deduction listed in Table 1. For ALR of 220.1 or greater, the Engineer will determine if corrective grinding is required or if the Contractor will have the option to perform corrective grinding in lieu of the monetary deduction listed in Table 1.

Once the Department performs IRI acceptance profile testing, the Department will not make adjustments to the incentive or disincentive payments for lots containing ALR that require corrective grinding, regardless of the average IRI after re-profile testing.

The surface of each lift will be free of waves and other irregularities. If waves or other irregularities are identified by the Engineer, the final lift in those areas may be checked with a 10-foot straightedge. If additional correction areas are identified by the Engineer, the variation of the surface from the straightedge between any two contact points will not exceed 1/4 inch.

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 not leave ground areas smooth or polished. The Contractor will ensure ground areas have a uniform texture equal in roughness to the surrounding unground asphalt concrete.

The Contractor will establish a positive means for the removal of grinding residue. Solid residue will be removed from the pavement surfaces before being blown by traffic action or wind. The Contractor will 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 will 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, will be disposed of in a manner that will prevent it from reaching any waterway in a concentrated state.

Following the completion of corrective grinding, the Department will re-profile test ALR greater than or equal to 75 linear feet that required corrective grinding. ALR less than 75 linear feet may be accepted by the Engineer using a 10-foot straightedge or be re-profiled by the Department.

The Contractor will flush seal all corrective ground surfaces. If the flush seal of the entire pavement surface is eliminated during construction, the Contractor will flush seal corrective ground surfaces at no additional cost to the Department.

2. Re-Profile Testing:

For scheduling purposes, the Contractor is responsible to contact the Materials and Surfacing Office at least 7 calendar days prior to the anticipated start of corrective grinding work (phase of project or overall project). In addition, the Contractor will contact the Materials and Surfacing office at least 2 business days prior to the anticipated completion of corrective grinding (phase of project or overall project) to schedule the agreed upon anticipated day of re-profile testing.

Prior to the anticipated day of re-profile testing, the Contractor will perform all work required prior to the Department performing the re-profile testing. The Contractor may continue sweeping the roadway any time, as needed, prior to re-profile testing.

The Department will perform the re-profile testing within 5 business days of the completion of all corrective grinding provided all of the following conditions are met:

- The Contractor has completed all AC pavement corrective grinding in the area to be re-profile tested;
- The Contractor has cleaned the surface of debris and other obstructions and has completed necessary sweeping;
- The Contractor has placed necessary traffic control devices;

- The ambient air temperature is at least 40°F but not above 100°F; and,
- Rain and other weather conditions determined inclement by the Engineer are not present.

The Department will provide the Contractor re-profile testing results within 2 business days of completing the re-profile testing. The Department will identify and mark ALR requiring additional corrective grinding.

- 3. Incentive/Disincentive Payment:** The Department will base Incentive and disincentive payments on the average IRI determined for each lot and will make incentive and disincentive payments based on the following tables:

1 Opportunity	
IRI	Price Adjustment
Inches per mile	(Dollars per lot)
35.0 or less	\$600
35.1 to 40.0	\$300
40.1 to 45.0	\$200
45.1 to 50.0	\$100
50.1 to 65.0	\$0
65.1 to 70.0	-\$100
70.1 to 75.0	-\$200
75.1 to 80.0	-\$300
80.1 or greater	-\$600

2 Opportunities	
IRI	Price Adjustment
Inches per mile	(Dollars per lot)
30.0 or less	\$600
30.1 to 35.0	\$300
35.1 to 40.0	\$200
40.1 to 45.0	\$100
45.1 to 60.0	\$0
60.1 to 65.0	-\$100
65.1 to 70.0	-\$200
70.1 to 80.0	-\$300
80.1 or greater	-\$600

3 or more Opportunities, Class S	
IRI	Price Adjustment
Inches per mile	(Dollars per lot)
25.0 or less	\$600
25.1 to 30.0	\$300
30.1 to 35.0	\$200
35.1 to 40.0	\$100
40.1 to 60.0	\$0
60.1 to 65.0	-\$100
65.1 to 70.0	-\$200
70.1 to 80.0	-\$300
80.1 or greater	-\$600

Incentive payments cannot be improved due to grinding regardless of the average IRI.

Miscellaneous: All work required of the Contractor to prepare the roadway for testing including, but not limited to; corrective grinding, containing and removing grinding residue, sweeping, cleaning, preparing the surface for profiling or reprofiling, moving equipment, and rescheduling of work will not be measured and will be incidental to the contract.

The Contractor will replace all permanent pavement markings damaged, destroyed, or removed during corrective grinding at no additional cost to the Department.

The Department will measure and pay for all traffic control required for conducting the smoothness testing in accordance with Section 634 as part of the overall project.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
CONTRACTOR STAKING**

**PROJECT P-PT 0011(145)83, PCN 05V6
MINNEHAHA COUNTY**

MAY 15, 2025

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 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; taking original and final cross sections of all Contractor secured borrow sources and State designated borrow sources; taking cross sections of all topsoil stockpiles; taking final cross sections for earthwork quantities at the slope stake stations and plus stations or by radial surveying methods; and staking right-of-way, easements, and fence.

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 clearing line, slope staking and slope stake referencing, grade staking (blue tops), structure staking, and performing the miscellaneous staking as described in the plans and in this specification.

Horizontal and vertical control has been established 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 Contractor will perform the staking work in accordance with the Department's Survey Manual, except as modified by this specification.

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 Contractor will perform all staking work under the supervision of a qualified surveyor or engineer who is experienced and competent in road and bridge construction surveying and staking. 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 work to the Engineer for review at least 14 calendar days prior to beginning the staking work.

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 Department will set reference 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 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. Stakes set not meeting these requirements will be reset at the Contractors expense. The Contractor will replace stakes damaged, destroyed, or made unusable at no additional expense to the Department.

The Engineer may check the accuracy and control of the Contractor's survey and staking work 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, and grade 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.

- 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 a set distance, at the right-of-way line, or at the easement line, as approved by the Engineer.

The slope stakes will be set at 100-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 cross sections are completed and accepted by the Department.

The Department will not provide slope stake notes. The Contractor is responsible to generate the slope staking notes using the cross sections and the existing field conditions.

- 3. Grade Staking:** 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.

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

The Department will not provide grade stake notes. The Contractor is responsible to generate the grade staking notes using the typical sections and the existing field conditions.

- 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. 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;
- b. Topsoil measurement and computation of quantities;
- c. Special ditch staking;
- d. 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);
- e. Right-of-way staking including easement lines and fence post panels;
- f. 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 for at the contract unit price per hour for Engineer Directed Surveying/Staking;
- g. Mark limits of removal items (trees, foundations, curb & gutter, sidewalk, etc.);
- h. 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.);
- i. Final and original cross sections of Contractor and State furnished borrow pits and computations. The Contractor will perform earthwork computations by the average end area method, surface-to-surface method, or alternate computation method approved by the Engineer;
- j. Resetting horizontal and vertical control, if disturbed;
- k. Approach slab and sleeper slab staking;
- l. Staking of sidewalks and curb ramps; and,

m. 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 ± 0.05 foot and the vertical tolerance is ± 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: Final Cross Section Survey includes the following work:

Final earthwork (or terrain data) cross sections at the same intervals, stations, and plus stations as the slope stakes and computations 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, 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 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.

- 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. The Department will not include travel time for the survey crew in the measurement.

The Engineer will issue a DOT 75 ticket for the hours authorized for engineer directed surveying/staking.

- 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 may be decreased if the Contractor and Engineer agree to accept the plan unclassified excavation quantity for any or all earthwork balances.

E. BASIS OF PAYMENT

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

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**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 ft²/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° F and 100° 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 ft²/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.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
STAINLESS REINFORCING STEEL**

**PROJECT P-PT 0011(145)83, PCN 05V6
MINNEHAHA COUNTY**

NOVEMBER 13, 2025

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.

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THE FOLLOWING UTILITY COMPANIES ARE INVOLVED ON

PROJECT P-PT 0011(145)83, Minnehaha County, PCN 05V6

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 August 20th, 2024, 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) Alliance Communication
1400 E Aspen Blvd
Brandon, SD 57005
CONTACT: Jeff Hove
O: (605) 582-6311
C: (605) 941-7035
E: JeffH@Alliance.Coop

Alliance Communication (Alliance) – Alliance has underground fiber lines and facilities running along the entire project that were placed at approximately 36" minimum depth. Their fiber enters the project limits along SD Highway 11 at STA. 90+00 – 70' L where it proceeds north, varying approximately 70' L to 73' L from the Centerline of SD Highway 11. At approximately STA. 142+54 Alliance's fiber crosses SD Highway 11 to approximately 70' R of Centerline and continues north in the east right-of-way where it proceeds north to the intersection's southeast quadrant. At the intersection of 257th Street and SD Highway 11 or approximately STA. 158+52 Alliance's fiber crosses SD Highway 11 from the southeast quadrant to the southwest quadrant, then proceeds north, varying approximately 66' L to 70' L from Centerline. This fiber continues north outside of the End Project limits or STA. 165+75. There is a fiber crossing at approximately STA. 165+00.

Alliance has fiber within the project limits of the 258th Street or xr107 alignment. From approximately STA. 13+50 to approximately STA. 22+51 Alliance's fiber varies 30' L to 40' L. At approximately STA. 22+51 Alliance's fiber crosses 258th Street to the southwest quadrant and then crosses SD Highway 11 at approximately 43' R of xr107 alignment. Alliance's fiber continues east varying from approximately 43' R to 40' R of xr107 alignment and proceeds outside of the project limits at STA. 33+84.93.

Alliance stated they have fiber lines within the project limits of 257th Street of xr159's alignment. Alliance's fiber was placed approximately 30' R in the north right-of-way of 257th Street from STA. 3+50 to approximately STA. 8+38, where it crosses 257th Street to the southwest quadrant to approximately 40' R, where it then proceeds east, crossing SD Highway 11. This fiber proceeds east in 257th Street's south right-of-way at approximately 30' R of xr159's alignment and continues east outside of the project limits at STA. 16+00. This fiber is not shown on the plans and was not surveyed.

Alliance plans to relocate all fiber within the project limits by boring fiber in the same location as existing fiber but deeper as needed to be out of the way of SDDOT construction. Alliance will still have some fiber facilities,

such as Pedestals and Handholes that will need to be protected-in-place during the construction process. Alliance has applied for a permit and plans to proceed with their relocation fall of 2025. After Alliance's review of the highway construction plans, adjustments/relocations will be necessary. Alliance'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) Minnehaha Community Water
47381 248TH ST
DELL RAPIDS, SD 57022-5305
CONTACT: SCOTT BUSS, GENERAL MGR.
O: 605-910-5870
E: mcwc@siouxvalley.net

Minnehaha Community Water (MCW) – MCW has an underground 8" waterline within the project limits crossing SD Highway 11 at approximately STA. 159+20. This waterline presents itself in the north right-of-way of 257th Street or xr159's portion of the project. MCW's waterline is partially shown in the SDDOT xr159 plans. From STA. 3+50 to approximately STA. 7+25 MCW's waterline is not shown and was placed in the north right-of-way of 257th Street at approximately 27' L, of centerline. At approximately STA. 7+25 – 27' L, the SDDOT surveyed MCW's waterline to approximately STA. 10+20 – 33' L where it ends at a valve location. MCW has waterlines located within the existing public right-of-way which, after MCW's review of the highway construction plans, no adjustment/relocation should be necessary. MCW's facilities are in the 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) Bluepeak Communications
5100 S Broadband Rd
Sioux Falls, SD 57108
CONTACT: Jordan Huber
O: (605) 498-4922
P: (605) 366-1360
E: Jordan.Huber@MyBluepeak.com

Bluepeak Communications (Bluepeak) – Bluepeak has fiber within 258th Street's existing public right-of-way or xr107's alignment that was placed at an approximate 36" to 48" depth. Bluepeak's fiber enters the xr107 project limits at approximately STA. 13+50 – 46' R, where it proceeds east to a Handhole in the southwest quadrant of the intersection of 258th and SD Highway 11 at approximately STA. 22+20 – 48' R. From Bluepeak's Handhole their fiber continues east, crossing SD Highway 11's alignment at approximately STA. 107+00, their fiber continues in xr107's alignment at approximately 35' R in the existing south public right-of-way and exit the project limits at STA. 33+84.93. Bluepeak intends to have their relocation done in the spring 2026 before SDDOT construction. Bluepeak has underground fiber cables located within the existing public right-of-way, which after Bluepeak's review of the highway construction plans, adjustments/relocation will be necessary. Bluepeak'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) Midcontinent Communication
1305 N Terry Ave
Sioux Falls, SD 57107
CONTACT: Al Mullnix
C: 605-274-8546
E: Al.Mullnix@Midco.com
ONSITE CONTACT: Dylan Haas
C: 605-231-0340
E: Dylan.Haas@Midco.com

Midcontinent Communication (Midco) – Midco has an underground fiber cable running south to north within SD Highway 11's west right-of-way. Midco's fiber enters the SD Highway 11 alignment at STA. 90+00 – 71' L and continues north to the southwest quadrant of the intersection of SD Highway 11 and 258th Street, where it enters a Handhole structure at approximately STA. 22+40 – 40' R of the xr107 alignment. Midco's fiber then continues east, crossing SD Highway 11's alignment at approximately STA. 106+00; this fiber continues east at approximately 42' R of xr107's alignment, where it proceeds out of the project limits at STA. 33+84.93. Midco's fiber was placed at approximate 36" minimum depth. Midco states that their Handhole structure at an approximately STA. 22+40 – 40' R may need adjustment and is willing to work with the SDDOT contractor during the construction process. Midco also states that their fiber cable from approximately STA. 98+00 – 71' L to approximately STA. 101+00 – 71' L may need to be lowered after SDDOT construction has been completed and will work with the SDDOT Sioux Falls Area office through this process. Midco has underground fiber lines located within the existing public right-of-way which, after Midco's review of the highway construction plans, adjustments/relocation may be necessary after SDDOT construction is complete. As Midco'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) Sioux Valley Energy – Southwestern Electric Cooperative, Inc.
PO BOX 216, 23491 491st Ave,
Colman, SD 57017-0216
CONTACT: Jason Sage
O: (605)-256-1629 or 800-234-1960
C: (605)-530-9472
E: jason.sage@siouxvalleyenergy.com

Sioux Valley Energy (SVE) – SVE has underground power lines running throughout the entire project's limits that were installed at an approximate 40" minimum depth. SVE power lines proceed into the project limits at STA. 90+00 to approximately STA. 108+00 varying 84' R to 89' R within a private easement. From approximately STA. 108+00 to approximately STA. 115+00, SVE's underground power was placed approximately 100' R of SD Highway 11's alignment on private easement. At approximately STA. 115+00, the underground power enters the existing public right-of-way and continues north, varying from approximately 68' R to 78' R to approximately STA. 122+00, where the underground power exits the existing public right-of-way back into a private easement, continuing north to approximately STA. 165+00. At approximately STA. 165+00, the underground power crosses SD Highway 11 to the west existing public right-of-way and proceeds north out of the project limits.

SVE also has underground power lines within the project limits of 258th Street or xr107's alignment. This underground power proceeds into the project limits at approximately STA. 13+50 – 45' L, where it continues east to approximately STA. 19+20, where continues into private easement to approximately STA. 21+00. The

underground power line then returns into the public right-of-way at approximately 44' R of xr107's alignment and continues east crossing SD Highway 11, past the end of the project limits of xr107 at STA. 33+84.93. The underground power crosses the xr107 alignment at approximately STA. 30+80 to provide service to a private residence.

SVE has buried underground power lines within the project limits of 257th Street or xr159 alignment. Starting at approximately STA. 9+80 R to approximately STA. 12+60 R, there is an underground powerline not shown on the DOT plans. This underground power was placed in the shoulder of the road at a 3' minimum depth. At approximately STA. 12+60 this powerline proceeds east as overhead power, and power pole structures can be found at approximately STA. 12+60, and 15+45. SVE has determined this small portion of overhead power will be changed to underground power during the relocation process.

SVE intends to complete their relocation by Spring of 2026 and will need SDDOT to purchase new right-of-way to start their relocation process. SVE has underground power lines located within both existing right-of-way and private easement which, after SVE's review of the highway construction plans, relocation will be necessary. At the time of certification, an agreement is currently in process. SVE has provided estimates to the SDDOT, and paperwork is being prepared to be sent out to SVE for signatures. The agreement is anticipated to be executed by the middle of October 2025.

- (6) Xcel Energy (Transmission)
414 Nicollet Mall 5th Floor
Minneapolis, MN 55401
CONTACT: Josh Tomlinson
O: 719-355-9126
E: Joshua.Tomlinson@xcelenergy.com

Xcel Energy Transmission Lines (Xcel) – Xcel has an overhead transmission line crossing SD Highway 11 at approximately STA. 114+90. Xcel has two pole structures at approximately STA. 115+12 – 72' R and approximately STA. 115+25 – 65' R. These two structures are located within an Xcel private easement and were determined to conflict with the process of demolition and construction of Structure No. 50-280-139. At the time of certification, an agreement has been started; the SDDOT is currently waiting for an estimate from Xcel. The agreement is anticipated to be executed by Oct 2025. Xcel has stated that if the agreement process can be completed within a month (Oct 2025) they will have crews in the area that can start the relocation process.

- (7) East River Electric Power Cooperative, Inc.
P.O. Box 227, 211 S. Harth Ave.
Madison, SD 57042
CONTACT: Jordan Brown
O: (605) 256-8231
C: (605) 291-9302
E: JBrown@EastRiver.Coop

East River Electric Power Cooperative, Inc. (East River) – East River has overhead power transmission lines within the project limits of 258th Street or xr107's alignment. This overhead power proceeds into the project limits at approximately STA. 13+50 – 52' R within a private easement, where it continues east and crosses SD Highway 11's alignment at approximately STA. 106+98 to xr107's alignment at approximately STA. 24+00. From

approximately STA. 24+00, East River's overhead power then crosses 258th Street to the north side to approximately 56' L of xr107's alignment, where it then proceeds east to the end of the construction limits at STA. 33+84.93. At the time of the certification, an agreement is in process has been started and SDDOT is currently waiting for an estimate from East River. The agreement is anticipated to be executed by November 2025. East River has stated that they intend to relocate their facilities in the Spring of 2026.

- (8) Privately Owned Underground Powerline and Waterline – This privately owned waterline and powerline were surveyed via Quality Level B crossing 258th Street's or xr107's alignment at approximately STA. 32+37. SDDOT's Right-of-Way Department has been in contact with the landowner / private facility owner and is currently in negotiations to relocate the private waterline and powerline facilities across 258th Street or xr107's alignment. The depths of these private utilities are unknown. It is SDDOT Right-of-Way Department's intention that upon mutual agreement, the landowner would then be responsible to have their facilities relocated, and the SDDOT contractor will need to reach out to the landowner for new placement of private facilities.

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
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
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

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 procurement 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/WHDL/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 procurement 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 contractor). "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.

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**Wage and Hour Division
U.S. Department of Labor (DOL)
200 Constitution Avenue, N.W.
Washington, DC 20210**

Davis-Bacon Act Wage Decisions
State: South Dakota
Construction Types: Heavy and Highway
Counties: South Dakota Statewide

***SUSD2023-001 01-11-2023**

LABORERS

GROUP GL1

Air Tool Operator; Common Laborer; Landscape Worker; Flagger; Pilot Car Driver;
Trucks under 26,000 GVW; Blue-top Checker; Materials Checker

GROUP GL2

Mechanic Tender (Helper); Pipe Layer (except culvert); Form Builder Tender;
Special Surface Finish Applicator; Striping

GROUP GL3

Asphalt Plant Tender; Pile Driver Leadsman; Form Setter; Oilier/Greaser

GROUP GL5

Carpenter; Form Builder

GROUP GL6

Concrete Finisher; Painter; Grade Checker

POWER EQUIPMENT OPERATORS

GROUP G01

Concrete Paving Cure Machine; Concrete Paving Joint Sealer; Conveyor; Tractor (farm type with
attachments); Self Propelled Broom; Concrete Routing Machine; Paver Feeder; Pugmill; Skid Steer

GROUP G02

Bull Dozer 80 HP or less; Front End Loader 1.25 CY or less; Self Propelled Roller (except Hot Mix);
Sheepsfoot/50Ton Pneumatic Roller; Pneumatic Tired Tractor or Crawler (includes Water Wagon and
Power Spray units); Wagon Drill; Air Trac; Truck Type Auger; Concrete Paving Saw

GROUP G03

Asphalt Distributor; Bull Dozer over 80 HP; Concrete Paving Finishing Machine; 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 Tractor; Euclid or Dumpster; Material Spreader;
Rumble Strip Machine

GROUP G04

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; Concrete Pump Truck

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

TRUCK DRIVERS

GROUP GT1

Tandem Truck without trailer or pup; Single Axle Truck over 26,000 GVW with Trailer

GROUP GT2

Semi-Tractor and Trailer; Tandem Truck with Pup

ELECTRICIANS

GROUP E01

Electrician

Agency: U.S. DOL
Wage Decision Number: **SD20230032 SD1**
Counties: SD Statewide
Wage Decision Date: **03/10/2023 (Mod-0)**

Rates	Fringes
22.38	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.

*Classifications listed under an "SU" identifier were derived from survey data and the published rate is the weighted average rate of all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates.

Survey wage rates are not updated and will remain in effect until a new survey is conducted.

A COPY OF THIS DOCUMENT, COLORED TAN, MUST BE CONSPICUOUSLY POSTED AT THE PROJECT SITE

**Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210**

Davis-Bacon Act Wage Decisions**State: South Dakota****Construction Types: Heavy and Highway****Counties: South Dakota Statewide**

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In the listing above, the "SU" identifier indicates the rates were derived from survey data. As these weighted average rates include all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of the survey on which these classifications and rates are based. The next number, 007 in this example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

For SDDOT Defined Work Classifications, please visit: <https://dot.sd.gov/doing-business/contractors/labor-compliance>

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- an existing published wage determination
- a survey underlying a wage determination
- a Wage and Hour Division letter setting forth a position on a wage determination matter
- a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write 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 the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write 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 by 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

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
REGARDING
STORM WATER DISCHARGES
TO WATERS OF THE STATE**

MAY 8, 2018

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 FOR STORM WATER 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 Storm Water Discharges Associated with Construction Activities for the project identified above."

A copy of the full version of the General Permit for Storm Water Discharges Associated with Construction Activities, dated 04/01/2018, must be posted on the job site. The General Permit for Storm Water Discharges Associated with Construction Activities is available for downloading and printing from the SD DENR 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.

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