Planning & Engineering
Office of Project Development
700 E. Broadway Avenue
Pierre, SD 57501
O: 605.773.3275
dot.sd.gov

June 5, 2026

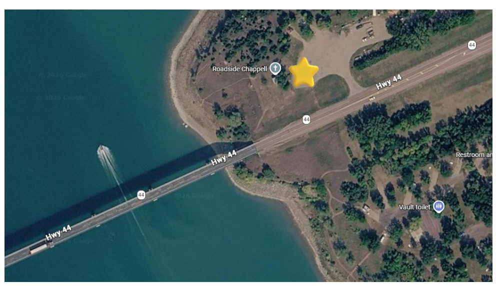
Re: **On-Site Visit Opportunities**; Project EM-P 0044(207)290 – PCN 05X0 – SD44 Missouri River Bridge (Platte/Winner)

To Whom It May Concern,

The South Dakota Department of Transportation (SDDOT) will offer two on-site visit opportunities for contractors interested in the Platte/Winner Bridge project. These visits are intended to provide prospective bidders with the chance to become familiar with the project site and meet with SDDOT. The preference is for subcontractors to coordinate on-site visits with prime contractors.

The SDDOT will be available to meet with contractors on Tuesday, June 23rd and Thursday, June 25th from 10:00 a.m. to 4:00 p.m. CST.

Meeting Location
Attendees should meet in the parking lot on the northeast side of the project site.



Attendance Request
Contractors must sign up for a time slot by filling out the form attached and emailing it to the SDDOT at **DOTBids@State.SD.US**. The SDDOT asks that all requests for on-site visits be made by Friday, June 19th.

We appreciate your interest in the Platte/Winner Bridge project and look forward to meeting with you on site.

Sincerely,
SD DOT

Contractor On-Site Visit Request Form

Project: SD44 Platte/Winner Bridge – PCN 05X0
Date of Request: ____

Company Information
- Company Name: ____
- Primary Contact Name: _______________________________________
- Phone Number: ____
- Email Address: ____

Attendees for On-Site Visit
(Please list all individuals who will attend.)

1. Name: ___________________________ Phone: ____________________
2. Name: ___________________________ Phone: ____________________
3. Name: ___________________________ Phone: ____________________
4. Additional attendees (if any): ____

Type of Work Performed by Your Company

Requested On-Site Visit Time
Site visits are offered in 30-minute increments between **10:00 AM and 4:00 PM**. If your preferred time slot is not available, the SDDOT will contact you to pick a new time. The contractor will receive an email notification once their requested time slot has been reviewed and approved.
Preferred Time Slot: ____

Request for Additional Time (Optional)
If your team requires more than the standard 30-minute visit, please describe the reason and the amount of additional time requested. Additional time is not guaranteed but will be considered:

Signature
By submitting this form, the contractor acknowledges that site visit scheduling is subject to availability and confirmation.

Name: ______________________________________
Title: ______________________________________
Signature: __________________________________ Date: ______________

Planning & Engineering
Office of Project Development
700 E. Broadway Avenue
Pierre, SD 57501
O: 605.773.3275
dot.sd.gov

June 5, 2026

Re: **Virtual Pre-Bid Meeting** Project EM-P 0044(207)290 – PCN 05X0 – SD44 Missouri River Bridge (Platte/Winner)

To Whom It May Concern,

A pre-bid meeting for the Platte/Winner Bridge Reconstruction Project is scheduled for Tuesday, July 7th at 1:30 PM CST and will be conducted via Microsoft Teams. All interested contracting parties are invited to participate using the meeting link provided below.

The meeting will include a presentation outlining the project's overall scope of work, key design elements, traffic control considerations, and contract time. Contractors will also have the opportunity to ask questions of Department staff, consultants, and project stakeholders.

Although attendance is not mandatory, all interested contracting parties are strongly encouraged to join.

Participants must join the meeting using the link provided. To minimize audio feedback, please ensure your computer microphone is muted. Because the meeting will be held virtually, we ask that you enter your company name followed by the names of all attendees from your organization into the Microsoft Teams chat upon joining. A recording of the pre-bid meeting will be made available on the SDDOT Contractor SharePoint site following the meeting.

Join Platte/Winner Bridge Pre-Bid Meeting

Date: July 7, 2026

Time: 1:30 – 3:30 PM (CST)

Meeting ID: 228 438 244 171 169

Additional instructions regarding the meeting format will be provided at the beginning of the meeting.

We look forward to seeing you there!

Sincerely,
SD DOT

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DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS,

PROPOSAL, SPECIAL PROVISIONS,

CONTRACT AND CONTRACT BOND

FOR

STRUCTURE (5770'-6" STEEL GIRDER) & APPROACH GRADING

FEDERAL PROJECT NO. EM-P 0044(207)290
(PCN 05X0)

SD HIGHWAY 44

IN **CHARLES MIX, GREGORY** COUNTIES

July 29, 2026

NOTICE TO ALL BIDDERS

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

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

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

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

* * * *

PLANS, PROPOSALS AND ADDENDA

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

* * * *

Project Number: EM-P 0044(207)290 Revised 10/8/25

PCN 05X0

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 July 29, 2026, at which time the SDDOT will open bids. All bids will be checked for qualifications with results posted on the SDDOT website. The South Dakota Transportation Commission will consider all bids at a scheduled Commission meeting.

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

FIELD WORK COMPLETION: **JUNE 20, 2031**

SUBSTANTIAL COMPLETION: **JUNE 21, 2030**

The project category is Category III
The project type is Structural
The geographic zone is Zone 5

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

WORK TYPE FOR THIS PROJECT IS: **WORK TYPE 7**

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

The South Dakota Standard Specifications for Roads and Bridges, 10-1-25 Version, 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.

Jay Peppel
PO Box 1206
Mitchell, SD 57301-7206
Phone: 605/995-8120

PROPOSAL

Revised 8/10/11

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, STATE OF SOUTH DAKOTA:

Ladies / Gentlemen:

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

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

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

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

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

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

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

CERTIFICATION REGARDING LOBBYING

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

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

REV 2/25/26

INDEX OF SPECIAL PROVISIONS

PROJECT NUMBER(S): EM-P 0044(207)290 PCN: 05X0

TYPE OF WORK: STRUCTURE (5770'-6" STEEL GIRDER) & APPROACH GRADING

COUNTIES: CHARLES MIX, GREGORY

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.

Bobbie Country, Lacey Johnson is the official in charge of the Winner Career Center for Charles Mix, Gregory Counties.

THE FOLLOWING ITEMS ARE INCLUDED IN THIS PROPOSAL FORM:

Special Provision for Contract Time, dated 5/1/26.

Special Provision Regarding Combination Bids, dated 6/1/26.

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

Special Provision Regarding Section 404 Permit, dated 6/4/26.

Fact Sheet #14

Special Provision for Section 408 Request Number 408-2023-0016, dated 12/20/24.

Special Provision for United States Coast Guard Bridge Permit, dated 4/3/25.

Special Provision for IRI Bridge Smoothness, dated 8/23/21.

Special Provision for Disc Bearing Assembly, dated 9/21/23.

Special Provision for Drilled Shaft Construction, dated 5/4/26.

Special Provision for Modular Expansion Joint Assembly, dated 9/21/23.

Special Provision for Stainless Reinforcing Steel, dated 8/25/25.

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

Special Provision for Mass Concrete – Protection of Mass Concrete by Controlling Heat of Hydration (Incidental), dated 5/4/26.

Special Provision for Contractor Staking with Machine Control Grading Option, dated 8/25/25.

List of Utilities.

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

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
CONTRACT TIME

PROJECT P 0044(207)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

MAY 1, 2026

Substantial Completion

The Contractor will substantially complete the project by the June 21, 2030 substantial completion date.

The Department will consider the work substantially complete when the new structure is complete, and all lanes associated with the new structure are open to unimpeded traffic with final surfacing.

The Engineer will determine when the project is substantially complete.

If the Contractor does not complete the required work by the substantial completion requirement, the Department will make a disincentive assessment amounting to $30,000 per calendar day. A contract item for incentive/disincentive pay is included in the bid schedule for the Department's use in assessing disincentives. The Department will use a negative quantity of days for assessing disincentives. The Department will count calendar days in accordance with Section 8.7 C.

Field Work Completion

The Contractor will complete the project by the June 20, 2031 field work completion date.

The Contractor will complete all work on the project prior to the field work completion requirement. If the Contractor does not complete all work by the field work completion requirement, the Department will assess liquidated damages in accordance with Section 8.9 Table A. The Department will assess liquidated damages for each calendar 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 calendar days in accordance with Section 8.7 B.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING
COMBINATION BIDS

EM-P 0044(207)290, PCN 05X0
SD HIGHWAY 44
STRUCTURE (5770'-6" STEEL GIRDER) & APPROACH GRADING
CHARLES MIX, GREGORY COUNTY

JUNE 1, 2026

Bidders submitting a bid on this project **MUST ALSO** submit a bid on project:

EM-P 0044(207)290, PCN 0AL0
280TH ST
STRUCTURE 0.5 N & 3.7 W OF ARMOUR ON 280 ST OVER ANDES CK, SN 22-143-120
DOUGLAS COUNTY

Award of both projects will be to the same bidder based on the total of the two projects.

Work on PCN 0AL0 CANNOT be used to meet the DBE Goal established for this project.

After award, the contracts will be administered as entirely separate contracts.

* * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR
ON-THE-JOB TRAINING PROGRAM

MARCH 10, 2016

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

PURPOSE

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

INTRODUCTION

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

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

SELECTION OF TRAINING PROGRAM

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

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

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

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

RECRUITMENT AND SELECTION PROCEDURES

A. Prerequisite for Trainees

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

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

B. Licenses

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

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

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

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

C. Recruitment

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

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

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

D. Selection

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

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

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

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

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

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

DEPARTMENT RESPONSIBILITES

The Department (Civil Rights office):

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

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

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

CONTRACTOR RESPONSIBILITIES

The Contractor:

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

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

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

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

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

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

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

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

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

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

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

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

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

ADDITIONAL APPLICABLE PROVISIONS

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

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

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

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

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

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

WAGE RATES

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

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

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

BASIS OF PAYMENT

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

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

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

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

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

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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING
SECTION 404 OF
THE CLEAN WATER ACT

Project # EM-P 0044(207)290; PCN 05X0
Charles Mix & Gregory Counties

June 4, 2026
NATIONWIDE PERMIT NO 14

The above referenced project is authorized by the Department of the Army Nationwide Permit, found in the January 8, 2026 Federal Register publication "*91 FR 768 - Reissuance and Modification of Nationwide Permits.*"

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

Please refer to the attached ***Fact Sheet Nationwide Permit 14 and 2026 Nationwide Permits Regional Conditions***

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

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

Nationwide Permit 14
Linear Transportation Projects

Expires March 15, 2031

14. *Linear Transportation Projects.*

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

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

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

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

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

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

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

C. Nationwide Permit General Conditions

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

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

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

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

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

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

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

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

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

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

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows, including tidal flows. The activity must not restrict or impede the passage of normal or high flows, including tidal flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activities authorized by NWPs, must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the federal, tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

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

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

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

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

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

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

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

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

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

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

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

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

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

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

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

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

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

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

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

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

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

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

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

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

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

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

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

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

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

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

(Transferee)

____

(Date)

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

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

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

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

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

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

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

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

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

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

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

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

(2) Location of the proposed activity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. Further Information

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

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

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

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

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

F. Nationwide Permit Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

US Army Corps of Engineers ®
Omaha District

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

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

A. PRECONSTRUCTION NOTIFICATION REQUIREMENTS APPLICABLE TO ALL NWPs

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

1. Aquatic Resources of Special Concern:

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

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

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

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

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

2. Tribal Reservations and Tribal Trust Lands:

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

B. CONSTRUCTION PRACTICES:

1. Suitable Material:

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

2. Revegetation of Disturbed Areas:

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

3. Culvert Countersinking:

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

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

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

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

DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES
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November 24, 2025

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

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

Dear Mr. Morey:

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

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

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

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

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

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

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

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

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

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

The following general conditions apply to all Nationwide Permits:

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

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

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

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

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

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

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

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

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

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

Sincerely,

Hunter Roberts
Secretary

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

REGION 8
DENVER, CO 80202

December 16, 2025

SENT VIA EMAIL

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

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

Dear Mr. Morey:

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

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[1] See 90 FR 26100 (June 18, 2025).
[2] Indian country is defined at 18 U.S.C. § 1151.
[3] Indian country in South Dakota generally includes (1) lands within the exterior boundaries of the following Indian reservations located within South Dakota: the Cheyenne River Reservation, the Crow Creek Reservation, the Flandreau Indian Reservation, the Lower Brule Reservation, the Pine Ridge Reservation, the Rosebud Indian Reservation, the Standing Rock Reservation, and the Yankton Reservation (subject to federal court decisions removing certain lands from Indian country status within the Yankton Reservation); (2) any land held in trust by the United States for an Indian Tribe (including but not limited to the Sisseton-Wahpeton Oyate Tribe and the Turtle Mountain Band of Chippewa Indians); and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. Section 1151. The enclosed CWA Section 401 certification document specifies where these decisions apply.
[4] An inventory report compiled by the U.S. General Services Administration for federal properties as of 1962 identifies properties that may contain exclusive federal jurisdiction. This document is accessible at https://www.congress.gov/116/meeting/house/110088/documents/HHRG-116-II13-20191017-SD044.pdf. The EPA notes that this inventory report is not all-inclusive and that the information contained within it has not been recently confirmed

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

December 16, 2026

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

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

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

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

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

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

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

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

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

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

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

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

implementation where employed measures were ineffective.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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[10] Ibid.

[11] Ibid.

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

20 December 2024

Operations Division

SUBJECT: Section 408 Request Number: 408-NWO-2023-0016

Mr. Pete Longman
Consultant Management Engineer
South Dakota Department of Transportation
5316 West 60th Street North
Sioux Falls, SD 57107

Dear Mr. Longman:

The Omaha District of the United States Army Corps of Engineers (USACE) has completed its review of your request to replace the South Dakota Highway 44 (SD44) Platte-Winner Bridge (Bridge No. 12-085-080) across the Lake Francis Case Reservoir operated and maintained by USACE under Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. 408 (Section 408). This evaluation was performed consistent with Engineer Circular (EC) 1165-2-220.

Based on this evaluation, the District is granting permission to replace the existing South Dakota Highway 44 (SD44) Platte-Winner Bridge as specified in your request and subject to compliance with the terms and conditions below and attached. A fully executed real estate instrument from the USACE is required and will be forthcoming prior to any work occurring on lands on which USACE has either a fee title or easement interest. Below are special conditions necessary to ensure the alteration is not injurious to the public interest; does not impair the usefulness of the authorized project; and/or for environmental compliance purposes.

a) South Dakota Department of Transportation and/or its contractors shall not commence work on the proposed project until all necessary real property rights have been acquired from private landowners, permissions obtained from South Dakota Game Fish and Parks, and executed USACE real estate instruments are in place.

b) Adhere to all environmental commitments from the Environmental Assessment and enclosed Finding of No Significant Impact (FONSI) will be adhered to throughout entire construction process.

c) All conditions in the enclosed Executive Order 11988 and Northwestern Division Regulation 1110-2-5 Compliance Memo dated 5 November 2024, including:
   i. During 5 of the 6 construction stages, there will be temporary fill volumes within the reservoir pool. To reduce the adverse impacts, all temporary fills

will be removed at the end of construction and work areas will be surveyed to ensure the removal of the temporary fill has been achieved. Surveys should extend the entire width of the flow area and include below water hydrographic surveys. High density ground scan Lidar and multi-beam underwater is preferred. The surveys should be evaluated to provide a minimum of 1 ft contour accuracy within the entire work area. This scan will be compared to the topography and bathymetry data that was gathered at the start of design for the project. The pre- and post-project surveys of topography and bathymetry and the noted comparison are a requirement on this waiver and will be submitted to USACE when they become available.

d) The SDDOT will perform a pre-construction topographic survey. USACE will be included in the distribution of both the pre-construction topographic survey and the Bridge Demolition Plan detail(s) from the SDDOT when they become available.

e) Comply with all terms, conditions, and stipulations of the enclosed Section 106 National Historic Preservation Act (NHPA) Memorandum of Agreement (MOA) executed on 17 December 2021 (as amended) in accordance with 36CFR800.6.

f) Should the unanticipated discovery of cultural resources and/or historic properties occur during the project, work must be halted immediately, and USACE archeologist Bill Chada must be contacted to coordinate inspection of the find, at bill.r.chada@usace.army.mil or (605) 487-7845 extension 3226.

For any questions regarding your Section 408 permission decision, please contact Kristle Beaudet, Project Manager at kristlevenisse.p.beaudet@usace.army.mil or (402) 995-2268.

Sincerely,

Kimberly Thomas, P.E.
Chief, Operations Division

Enclosures

cc:
South Dakota Department of Transportation (Andrea Bierle)
HRGreen (Kevin Brehm)
South Dakota Game, Fish & Parks (Jeffrey VanMerteren)
Federal Highway Administration (Tom Lehmkuhl)

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA, NE 68102-4901

June 2, 2026

SUBJECT: Section 408 Request Number: 408-NWO-2023-0016

Mr. Pete Longman
Consultant Management Engineer
South Dakota Department of Transportation
5316 West 60th Street North
Sioux Falls, SD 57107

Dear Mr. Longman:

The Omaha District of the United States Army Corps of Engineers (USACE) granted permission to replace the South Dakota Highway 44 (SD44) Platte-Winner Bridge (Bridge No. 12-085-080) across the Lake Francis Case Reservoir operated and maintained by USACE under Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. 408 (Section 408), on December 20, 2024. This evaluation was performed consistent with Engineer Circular (EC) 1165-2-220.

Request for extension is granted through March 15, 2031. Compliance with the District's permission to replace the existing South Dakota Highway 44 (SD44) Platte-Winner Bridge as specified in your request are subject to compliance with the updated standard terms and conditions (enclosed), special terms and conditions in the December 20, 2024 letter, and the fully executed real estate instrument.

Sincerely,

Adam Nebel
Section 408 Program Manager
Planning Branch

Enclosure: Updated Standard Terms and Conditions

cc:
South Dakota Department of Transportation (Andrea Bierle)
HRGreen (Kevin Brehm)
South Dakota Game, Fish & Parks (Jeffrey VanMerteren)
Federal Highway Administration (Tom Lehmkuhl)

Standard Terms and Conditions
Pursuant to
33 USC 408 (Section 14 of the Rivers and Harbors Act of 1899, as amended)

LIMITS OF THE AUTHORIZATION

1. This permission only authorizes you, the requester, to undertake the activity described herein under the authority provided in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 USC 408). This permission does not obviate the need to obtain other federal, state, or local authorizations required by law. This permission does not grant any property rights or exclusive privileges, and you must have appropriate real estate instruments in place prior to construction and/or installation.
2. The time limit for completing the work authorized ends on March 15, 2031. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
3. Without prior written approval of the USACE, you must neither transfer nor assign this permission nor sublet the premises or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this permission. Failure to comply with this condition will constitute noncompliance for which the permission may be revoked immediately by USACE.
4. The requester understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or an authorized representative, said work will cause unreasonable conditions and/or obstruction of USACE project authorized design, the requester will be required upon due notice from the USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim can be made against the United States on account of any such removal or alteration.

INDEMNIFICATION AND HOLD HARMLESS

5. The United States will in no case be label for:
   a. Any damage or injury to the structures or work authorized by the permission that may be caused or result from future operations undertaken by the United States, and no claim or right to compensation will accrue from any damage; or
   b. Damage claims associated with any future modification, suspension, revocation of this permission.
6. The United States will not be responsible for damages or injuries which may arise from or be incident to the construction, maintenance, and use of the project requested by you, nor for damages to the property or injuries to your officers, agents, servants, or employees, or others who may be on your premises or project work areas or the federal project(s) rights-of-way. By accepting this permission, you hereby agree to fully defend, **indemnify,** and **hold harmless** the United States and USACE from any and all such claims, subject to any limitations in law.
7. Any damage to the water resources development project or other portions of any federal project(s) resulting from your activities must be repaired at your expense.

REEVALUATION OF PERMISSION

8. The determination that the activity authorized by this permission would not impair the usefulness of the federal project and would not be injurious to the public interest was made in reliance on the information you provided.
9. This office, at its sole discretion, may reevaluate its decision to issue this permission at any time circumstances warrant, which may result in a determination that it is appropriate or necessary to modify or revoke this permission. Circumstances that could require a reevaluation include, but are not limited to, the following:
   a. you fail to comply with the terms and conditions of this permission;
   b. the information provided in support of your application for permission proves to have been inaccurate or incomplete; or
   c. significant new information surfaces which this office did not consider in reaching the original decision that the activity would not impair the usefulness of the water resources development project and would not be injurious to the public interest.

CONDUCT OF WORK UNDER THIS PERMISSION

10. You are responsible for implementing any requirements for mitigation, reasonable and prudent alternatives, or other conditions or requirements imposed as a result of environmental compliance.
11. Work/usage allowed under this permission must proceed in a manner that avoids interference with the inspection, operation, and maintenance of the federal project.
12. In the event of any deficiency in the design or construction of the of the requested activity, you are solely responsible for taking remedial action to correct the deficiency.
13. The right is reserved to the USACE to enter the premises at any time and for any purpose necessary or convenient in connection with the government purposes, to make inspections, to operate and/or to make any other use of the lands as may be necessary in connection with government purposes, and you will have no claim for damages on account thereof against the United States of any officer, agent or employee thereof.
14. You must provide copies of pertinent design, construction, and/or usage submittals/documents. USACE may request that survey and photographic documentation of the alteration work and the impacted project area be provided before, during, and after construction and/or installation.
15. You may be required to perform an inspection of the federal project with the USACE, prior to your use of the structure, to document existing conditions.
16. USACE shall not be responsible for the technical sufficiency of the alteration design nor for the construction and/or installation work.
17. Once permission is granted, you must notify the USACE District at least

fourteen (14) days before work/usage is started so that post permission oversight can be performed by USACE.

18. You must schedule a final inspection with the USACE within thirty (30) days after completion of the work/usage.
19. You must submit a copy of “as-built” drawings within sixty (60) days of completion of work showing the new work as it relates to identifiable features of the federal project.

FINDING OF NO SIGNIFICANT IMPACT
SD 44 PLATTE-WINNER BRIDGE REPLACEMENT
FORT RANDALL DAM / LAKE FRANCIS CASE PROJECT
CHARLES MIX AND GREGORY COUNTIES, SOUTH DAKOTA
December 2024

Introduction: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 Code of Federal Regulations [CFR] § 1500 – 1508, 2022), the U.S. Army Corps of Engineers (USACE) Engineering Regulation (ER) 200-2-2 (33 CFR 230), and to comply with other applicable environmental laws and Executive Orders, an Environmental Assessment (EA) has been prepared to evaluate the expected direct, indirect, and cumulative impacts for the proposed replacement of the South Dakota Highway 44 (SD44) Platte-Winner Bridge (Project). The bridge is owned and operated by the South Dakota Department of Transportation (SDDOT) and crosses federal lands managed by USACE in Charles Mix and Gregory Counties, South Dakota. More specifically, the property is under the administration of the Fort Randall Dam / Lake Francis Case Civil Works Project. The existing bridge was constructed in 1966 and is beyond its 50-year engineering design lifespan. The proposed replacement of the existing bridge includes the construction of a new wider two-lane bridge that meets current SDDOT and Federal Highways Administration (FHWA) requirements. Additionally, the existing bridge would be demolished after the new bridge span is completed.

The authority to grant permission for temporary or permanent use, occupation, or alteration of any USACE Civil Works Project is contained in Section 14 of the Rivers and Harbors Act of 1899, as amended, codified at 33 United States Code (USC) 408 (Section 408). Section 408 authorizes USACE to grant permission for the alteration, occupation, and/or use of a USACE Civil Works Project if the activity will not be injurious to the public interest and will not impair the usefulness of the Project. Only project elements that would alter the Civil Works Project are within the review scope for the Section 408 Permission Request.

The Requestor for the Proposed Action is SDDOT and the lead Federal agency for this action is FHWA. More specifically, FHWA has primary responsibility for the EA under NEPA and must complete the requirements as defined in CEQ regulations contained in §1501.7. USACE has been designated as a Federal Cooperating Agency under CEQ regulations contained in §1501.8 for the Requestor's Proposed Action and contributed to the development of the EA development and analysis. The purpose of this Finding of No Significant Impact (FONSI) is to document USACE's formal adoption of the FHWA EA to make an informed decision on if USACE will grant the Section 408 Permission and applicable real estate easement for the Requestor's Proposed Action in accordance with CEQ regulations contained in §1506.3. USACE takes full responsibility for the information and analysis undertaken in the Section 408 Permission Request review and has independently assessed and validated the scope and content of the information.

Requestor's Proposed Action: The SDDOT, working cooperatively through FHWA, proposes to replace the existing aging SD 44 Platte-Winner Bridge, also known as the Lake Francis Case Memorial Bridge (Structure #12-085-080). The Requestor has proposed to construct a new two-lane girder/slab type highway bridge north of the existing bridge located at distances varying between 90 feet at the west end and 250 feet at the east end. The Requestor's Proposed Action is referred to in the EA as the "Refined North Skew" Build Alternative, which will meet current SDDOT and FHWA highway safety and design standards for bridges. The existing bridge is a 28-span, 5,655.5-foot by 30.3-foot continuous welded plate-girder bridge which will be demolished and removed from the USACE Civil Works Project upon completion of the new bridge. The total impact to lands and waters under USACE jurisdiction is approximately 25.88 acres. Impact to the USACE Civil Works Project would be primarily in Lake Francis Case with the placement of bridge pilings and support, along with shoreline impacts related to the bridge approaches, bank stabilization, and related infrastructure.

Alternatives: Nine action alternatives were considered to meet the purpose and need, which is to address the aging existing SD44 Platte-Winner Bridge to support the regional transportation infrastructure to meet current SDDOT and FHWA design and engineering standards.

Under the No Build Alternative (No Action Alternative), the existing SD44 Platte-Winner Bridge would remain in place and no new bridge would be constructed. SDDOT would continue routine operation and maintenance of the existing bridge that crosses USACE-owned and managed lands. Given the age and condition of the existing bridge, this alternative does not meet the purpose and need of the project. The No Build Alternative served as a baseline for effects associated with the Build Alternatives.

The build action alternatives were identified and developed as project engineering and design progressed, utilizing input from SDDOT, FHWA, the Study Advisory Team (SAT), key stakeholders, and public input. The September 2019 *SD44 Platte-Winner Bridge Corridor Study* describes the alternatives development process. Nine build alignment alternatives were developed that met the purpose and need for the project.

The Requestor's Proposed Action is the "Refined North Skew Alignment" Build Alternative, described in greater detail in Section 2.2 of the EA. This alternative was selected by SDDOT, FHWA and the SAT based on a comprehensive evaluation of the build alignment alternatives which included goals to avoid or minimize impacts to sensitive environmental resources (recreational, historical, natural, and cultural resources), community connectivity, and geotechnical risk factors related to landslides and placement of bridge foundations. The project goals identified in Section 1.4 of the EA were a core element of screening the alternatives. This alternative was considered since it had the least number of impacts to the footprint of foundations (pilings and supports) needed in the Missouri River, least staging and construction impacts, the availability for contractors (experience with bridge types and environmental conditions), lowest overall cost (construction and long-term maintenance), and ability to address sensitive environmental and geotechnical concerns.

Summary of Environmental Impacts: For all alternatives, the following resources were evaluated for impacts as compared to the No Action Alternative:

Resource	Significant Effects to Resource	Insignificant Effects to Resource	No Effects to Resource
Land Use		X	
Bicyclists and Pedestrians		X	
Visual Impacts and Aesthetics		X	
Socioeconomic Resources		X	
Environmental Justice			X
Greenhouse Gas Emissions		X	
Areas of Persistent Poverty		X	
Disaster Preparedness and Resiliency		X	
Access to Services		X	
Farmland, Soils, and Topography		X	
Noise		X	
Wetlands and Waters of the United States		X	
Air Quality		X	
Floodplains		X	
Vegetation, Fish, and Wildlife		X	
Threatened and Endangered Species		X	
State Listed Species		X	
Migratory Birds and Eagles		X	
Historical and Archeological Resources		X	
Section 4(f) and 6(f) Properties		X	
Regulated Materials			X

Endangered Species Act. Pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, the lead Federal agency (FHWA) determined that the Requestor's Proposed Action "may affect but not likely to adversely affect" the northern long-eared bat (Endangered; *Myotis septentrionalis*) and the whooping crane (Endangered; *Grus americana*). The FHWA made a "no effect" determination to the piping plover (Threatened; *Calidris canutus rufa*) and the pallid sturgeon (Endangered; *Scaphirhynchus albus*). USACE concurs with the FHWA's effects determinations. SDDOT, on behalf of FHWA, sent a letter to the U.S. Fish and Wildlife Service (USFWS) requesting concurrence for FHWA's effects determinations for Federally listed species. In a letter dated 5 April 2023 the USFWS concurred with the effects determination of "may affect but not likely to adversely affect" for the northern long-eared bat and whooping crane. All correspondence with USFWS is included in Appendix M of the EA.

National Historic Preservation Act/ Cultural Resources. Pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, USACE determined the Requestor's Proposed Action results in a finding of "Adverse Effect to historic properties" since the existing bridge is eligible for listing on the National Register of Historic Places and would be demolished and removed. In addition, the South Dakota State Historic Preservation Officer (SHPO) determined sufficient evidence exists to classify the area surrounding the existing east abutment of the bridge considered as eligible for listing on the NRHP.

On 22 March 2022 a Memorandum of Agreement (MOA) between USACE; SDDOT; South Dakota Department of Game, Fish and Parks (SDGFP); South Dakota SHPO; Yankton Sioux Tribes; and Rosebud Sioux Tribe includes stipulations and environmental commitments for preconstruction, construction, and post construction. The MOA is subject to change and has been amended twice since March 2022 to accommodate changes in design and further evaluation. As of June 2024, all signatories have approved the two amendments to the MOA. The MOA is included in Appendix H of the EA. The MOA amendments do not change the determinations described in the EA. Separate from the amendment process, documentation of MOA Stipulation IV being fulfilled in the letter dated 26 June 2023 from the South Dakota SHPO is included in Appendix H of the EA.

There is always the potential for an unanticipated discovery of cultural resources and/or historic properties. If cultural resources or historic properties are uncovered, work would be halted immediately, and the USACE Fort Randall Project Archeologist will be contacted to inspect the find. Coordination with Native American Tribes, Tribal Historic Preservation Officers (THPOs), and South Dakota SHPO, along with signatories to the MOA would occur prior to recommencing construction and related activities.

Mitigation Measures: All practical means to avoid or minimize adverse environmental effects were analyzed and incorporated into the Requestor's Proposed Action. Most impacts are short-term and minor as resources such as fish and wildlife habitat and public access along the shorelines would be restored and enhanced following construction and any disturbed land from construction-related impacts would be reclaimed. The Requestor's Proposed Action would be implemented because it can be reasonably constructed, meets the project's purpose and need, incorporates sound mitigation, and is consistent with USACE's commitment to the protection of the Nation's environment. Chapters 3 and 4 along with Appendices A, B, C, D, E, F, H, I, J, L, M, and N of the EA further detail specific mitigation measures. Environmental Commitments are found in Appendix N. Some of the more notable mitigation measures are listed below:

- The Applicant will ensure that the Contractor will be responsible for contracting the services of a qualified biologist for conducting preconstruction migratory bird surveys in suitable areas that have not been mowed or cleared prior to April 1st to determine if there are current nests and to determine offsetting measures to compensate for impacts to migratory birds. A survey will be conducted annually for each year of construction.

- Project activities that include tree removal, structure work, and/or work within one-quarter mile of known northern long-eared bat (NLEB) hibernacula or 150 feet of a known maternity roost tree, or suitable habitat will not occur from April 1 to October 31.
- The Applicant will ensure the Contractor will be responsible for obtaining the necessary permits from the South Dakota Department of Agriculture and Natural Resources (SDANR) and USACE prior to water extraction activities.
- The Applicant will ensure that construction or demolition activities will not take place during the Seasonal Work Restriction of April 1 to June 30 to avoid conflicts with spawning fish. If flows during this time are nonexistent or extremely low, the seasonal use restriction may not be applicable. The Contractor will not conduct in-stream work during the Seasonal Work Restriction without prior approval from the SDDOT Environmental Office.
- Construction and/or demolition debris may not be disposed of within the Public ROW, in wetlands; or within 200 feet of surface waters, or in an area that adversely affects wildlife, recreation, aesthetic view of an area, or any threatened or endangered species, as approved by the SDDOT Environmental Office.
- The SDDOT will have obtained Section 404 Clean Water Act, Section 10 Rivers and Harbors Act; and Section 408 Permission prior to any construction activities and adhere to the requirements and stipulations contained therein.

Coordination and Public Review: The Requestor’s Proposed Action has been designed in such a way as to incorporate project-specific mitigation measures including impact avoidance and minimization. These mitigation measures were developed by FHWA, SDDOT, USACE, USFWS, SDGFP, and other resource agencies. As such, the Requestor’s Proposed Action is anticipated to only have localized, minor and short-term impacts on USACE-owned lands and would not impact or interfere with the authorized project purposes (Section 408 Compliance). Additionally, the Requestor’s Proposed Action complies with all appliable Federal, State, and local laws and regulations.

Project scoping was conducted in 2017 with SDDOT hosting a public open house on May 22-23, 2017, and December 12-13, 2017, in Winner, SD. All comments submitted to the FHWA (lead Federal Agency) were responded to and/or addressed in the EA to the satisfaction of USACE. The EA was made available to the public on May 31, 2023, prior to public meetings. Notice of availability of the EA was published in the Gregory Times and the Winner Advocate newspapers. Printed hardcopies of the EA were available to the public at the SDDOT Winner Area Office and at the Platte, SD City Hall.

A public open house was held on June 20, 2023, at the Holiday Inn Express in Winner, SD and on June 21, 2023, at the Platte Area Community Center in Platte, SD.

Conclusion: After evaluating the anticipated physical, environmental, economic, and social effects of the Requestor’s Proposed Action, it is my determination that allowing a real estate easement instrument for replacing the SD44 Plate-Winner Bridge on USACE-lands would not constitute a major Federal action that would significantly affect the quality of the human environment. The Requestor's Proposed Action has been coordinated with the appropriate resource agencies and there are no significant unresolved issues; therefore, preparation of an Environmental Impact Statement is not required.

20 December 2024

Date

Kimberly S. Thomas, P.E.
Chief, Operations Division
U.S. Army Corps of Engineers, Omaha District

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA, NE 68102-4901

CENWO-EDH-B 5 November 2024

MEMORANDUM FOR CENWO-PMA-A (Beaudet)

SUBJECT: Executive Order 11988 and Northwestern Division Regulation 1110-2-5 Compliance Memo for Proposed SD44 Bridge Replacement in Gregory and Charles Mix Counties, South Dakota

1. References:

a. USACE Northwestern Division, "Water Control Manual: Fort Randall Dam-Lake Francis Case," Missouri River Basin Water Management Division, Omaha, 2018,

b. USACE, "Hydrological Statistics Technical Report," Missouri River Basin Water Management Division, Omaha, 2022.

2. Omaha District Flood Risk and Floodplain Management Section (FRFM) is responsible for coordinating the compliance with the requirements of Executive Order (EO) 11988 (Flood Plain Management) and the regulations within the Northwestern Division Regulation (NWDR) 1110-2-5 Land Development Guidance at Corps Reservoir Projects. FRFM has reviewed the proposed project submitted by South Dakota Department of Transportation to replace the Highway 44 Bridge spanning the Missouri River at Lake Francis Case within the Fort Randal Federal Flood Risk Reduction Project (FFRP). FRFM has determined the project does not meet the requirements described in NWDR 1110-2-5 part 5b. Reservoir Storage and requires a waiver to be provided by the Omaha District Commander. The project does meet compliance standards of other portions of the policy. With a signed waiver, the project will meet EO 11988 and NWDR 1110-2-5 compliance standards. Documentation supporting the compliance review is provided in the following sections.

3. The proposed project involves modifications to the Fort Randall Dam Flood Risk Reduction Project (FRRP) with construction of a new bridge (5,750 ft length) to replace the current South Dakota Highway 44 bridge (5,656 ft length) over the Missouri River at Lake Francis Case. The purpose of the project is to replace the existing bridge that was built in 1966 and address several critical issues. The bridge spans the Missouri River in Charles Mix County and Gregory County. To keep the existing bridge open to traffic, the new bridge will be constructed on the north side of the current bridge. Following completion, the old bridge will be demolished. Temporary causeways will be constructed on each bank for construction of the new bridge and demolition of the old bridge.

4. Lake Francis Case is operated with a normal operating pool at 1365.96 ft North American Vertical Datum 1988 (NAVD88). Operation Zones of the reservoir are listed in Table 1.

Table 1. Operation Zones in Lake Francis Case [1]

Storage Zone	ft NAVD 88
Zone A – Carryover Multiple Use	1321.0 to 1351.0
Zone B – Annual Flood Control and Multiple Use	1351.0 to 1366.0
Zone C – Exclusive Flood Control	1366.0 to 1376.0
Zone D – Maximum Reservoir Elevation	1376.0to 1380.3

5. For alterations to U.S. Army Corps of Engineers Civil Works projects, EO 11988 compliance is identified in Engineer Regulation (ER) 1105-2-100 3-3.6(I). The Corps of Engineers ER 1165-2-26, Implementation of EO 11988 on Flood Plain Management provides guidance on compliance with EO 11988. The following comments are provided in reference to ER 1165-2-26 Section 8 General Procedures:

a. *Determine if the proposed action is in the base floodplain*: The proposed project is located along state highway SD44 starting in Township 99N, Range 70W, Section 20 within Gregory County, South Dakota (latitude 43.38333, longitude -99.14203) and extending to Township 99N, Range 70W, Section 16, within Charles Mix County, South Dakota (latitude 43.38960, longitude -99.12272). Both Gregory and Charles Mix Counties participate in the National Flood Insurance Program. The half of the bridge within Charles Mix County, is located in Zone A "special flood hazard areas subject to inundation by the 1% annual chance flood event without base flood elevation (BFE)" as shown on FEMA FIRM panel 46023C0050C and 46023C0075C effective 02 June 2004. The other half of the bridge within Gregory County, is unmapped. Portions of the project will be located below the Probable Maximum Flood (PMF) pool elevation of Lake Francis Case (1380.3 ft NAVD88).

b. *Identify and evaluate practicable alternatives to the action or location of the action:* Because the project seeks to replace an existing bridge, the project is functionally dependent on its location in the floodplain and over the Missouri River. Other alternatives were discussed that included using detours, but these alternatives were not feasible and added significant travel time.

c. *Advise the general public in the affected area and obtain their views and comments*: It should be ensured that the proposed project is in compliance with floodplain management criteria of Charles Mix and Gregory Counties and the State of South Dakota. It is recommended that the applicant coordinate with local permitting offices, including the local floodplain administrator prior to construction. The proposed project has been communicated to various federal and state agencies, and general public through standard program procedure and as required by the National

Environmental Policy Act process. Two public coordination meetings have been held during the study to collect comments.

d. *Identify beneficial and adverse impacts due to the action:* The purpose of this project is to replace the SD44 bridge crossing the Missouri River at Lake Francis Case.

i. The new bridge will be beneficial to the communities by providing a structure that will have long-term viability for transportation. An adverse impact from construction of the project is that the cut/fill requirement will be temporarily unsatisfied because the old bridge must be kept in place during construction of the new bridge. The old bridge and temporary construction causeways will be removed at the completion of the project.

ii. Adverse impacts to the hydraulic routing within Lake Francis Case have not been identified. A hydraulic study was completed to model the impacts of the existing bridge, proposed bridge, and temporary causeways for the worst condition scenario. The results showed negligible effects to water surface elevations for various frequency conditions. Results met all criteria per the SDDOT Drainage Manual including at least 2-feet of vertical freeboard between the lowest point of the superstructure and the design 1% flood frequency as well as backwater increase of no more than 1 foot above existing conditions. The Fort Randall Project Office has concurred that the proposed project will not affect reservoir operations.

e. *Identify the potential for the project to induce development in the base floodplain:* This project will not change zoning or building restrictions; therefore, the project is not expected to have any impact on development potential within the floodplain.

f. *Determine viable methods to minimize any adverse impacts:* Significant adverse impacts have not been identified, but during 5 of the 6 construction stages, there will be temporary fill volumes within the reservoir pool. To reduce the adverse impacts, all temporary fills will be removed at the end of construction and work areas will be surveyed to ensure the removal of the temporary fill has been achieved. Surveys should extend the entire width of the flow area and include below water hydrographic surveys. High density ground scan Lidar and multi-beam underwater is preferred. The surveys should be evaluated to provide a minimum of 1 ft contour accuracy within the entire work area. This scan will be compared to the topography and bathymetry data that was gathered at the start of design for the project. The pre- and post-project surveys of topography and bathymetry for the project area are a requirement on this waiver.

6. The U.S. Army Corps of Engineers (USACE) NWDR 1110-2-5 establishes guidance for evaluating and documenting land development proposals within reservoir lands within the Northwest Division for which one authorized purpose of the reservoir is flood control. The USACE has responsibility to assure that the authorized project purposes are not compromised, that the public is not endangered, and that natural and cultural resources associated with project lands are not harmed, in accordance with applicable Federal and State regulations.

a. NWDR 1110-2-5 part 5b, Reservoir Storage, requires that for any “fill” volume, an equal or greater volume of “cut” must be removed at an elevation equal to or below the fill elevation. The overall intent of cut and fill balancing is to ensure long term flood storage will not be adversely impacted.

i. The greatest volume of temporary fill is estimated to occur during Stage 3 when the old bridge is in place and the new bridge is being constructed. A total volume of 22 acre-feet of temporary fill is proposed for placement within Lake Francis Case as detailed in Table 2. Breakdown of the material placement includes 13 acre-feet in Zone B, 7 acre-feet in Storage Zone C, and 2 acre-feet in Storage Zone D. This yields temporary storage volume reduction for Lake Francis Case of 0.0005% of the 4,274,000 acre-feet (storage volumes are based on August 2013 tables from 2011 surveys) [1]. Temporary fill will occur at varying quantities throughout the life of the project which is anticipated to extend for 3 years.

ii. In addition, the Fort Randall FRRP is one of the six Missouri River Mainstem dams that are operated as a system. The flood storage at Fort Randall is approximately 14.06% of the Mainstem Reservoir System flood storage capacity of 16.3 Million Acre Feet. Project fill at Lake Francis Case will reduce the Mainstem System capacity by 0.00013%.

iii. The 22 acre-ft of project fill is considered insignificant with respect to both the Fort Randall FRRP operations and the Missouri River Mainstem System Operations. To comply with NWDR 1110-2-5 part 5b requirements, SDDOT has requested a waiver from the Omaha District.

b. With respect to NWDR 1110-2-5 part 5c, *Flood Damage to Property*, the improvements will range in elevations within Land Development Zones 1 through 5. All proposed land uses associated with this project are considered acceptable in Zones 1 through 5.

c. NWDR 1110-2-5 part 5c, *Induced Constraints to System Flexibility*, states that the proposed project must not adversely affect system operation, and flexibility within the reservoir operation must be maintained. A concurrence response from the Missouri

River Basin Water Management Division has been provided. Reservoir operations are not anticipated to be modified in consideration of the SD44 bridge replacement project.

Table 2. Impacts on Flood Storage of 22 Ac-Ft Temporary Project Fill

FRRP	Storage Zone	Project Fill Volume, Ac-ft	Storage Volume [1] Ac-ft	Reduction %
Fort Randall Dam-Lake Francis Case	Zone A Carryover Multiple Use	-	1,532,000	-
	Zone B Annual Flood Control and Multiple Use	13	1,306,000	0.001
	Zone C Exclusive Flood Control	7	986,000	0.0007
	Zone D Maximum Reservoir Elevation	2	450,000	0.0004
	Combined Total of Zone A-D	**22**	**4,274,000**	**0.0005**
Missouri River System	Flood Storage [2]	22	16,300,000	0.0001

7. If you have any questions or comments regarding this review, please contact Laurel Hamilton, P.E., Chief of Flood Risk and Floodplain Section, Omaha District at (402) 995-2338.

Kellie Bergman

KELLIE K. BERGMAN, P.E.
Chief, Hydrologic Engineering Branch
Engineering Division

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA, NE 68102-4901

CENWO-EDH-B 25 November 2024

MEMORANDUM FOR CENWO- PMA-A (Beaudet)

SUBJECT: Approved Deviation from Northwestern Division Regulation 1110-2-5 for the Proposed South Dakota Highway 44 (SD44) Bridge Replacement at Lake Francis Case in Gregory and Charles Mix Counties, South Dakota (Project Number 408-NWO-2023-0016)

1. A deviation from Northwestern Division Regulation (NWDR) 1110-2-5 Land Development Guidance at Corps Reservoir Projects, Section 5.b Reservoir Storage, is granted for the proposed temporary fill from the SD44 Bridge Replacement project, as requested by the South Dakota Department of Transportation (SDDOT). The SD44 project bridge replacement is being pursued by the SDDOT to address concerns over the existing aging bridge (constructed in 1966) which does not meet current design standards.

2. The approved deviation is based on the determination that the proposed project will not impact the integrity of reservoir storage or compromise routing of the Probable Maximum Flood (PMF) and that proceeding with the selected alternative is in the best interest of the federal government and the residents of Gregory and Charles Mix Counties as outlined below and in the enclosure (CENWO-EDH-B Memorandum, Executive Order 11988 and Northwestern Division Regulation 1110-2-5 Compliance Memo for Proposed SD44 Bridge Replacement in Gregory and Charles Mix Counties, South Dakota, dated 06 November 2024).

3. Review of the project for compliance with NWDR 1110-2-5 determined that the proposed project does not achieve the required cut/fill balance within the pool of Lake Francis Case for certain stages of construction over the anticipated three-year project duration. The deviation from policy occurs between Stage 3 and 4 of construction before demolition of the old bridge and causeway when the temporary causeway, new bridge, and old bridge are all within Lake Francis Case. After construction of the new bridge, the old bridge and causeways will be removed. The project will meet the required cut/fill balance after the old bridge and temporary causeways are removed. The project was determined to be functionally dependent on its location within Lake Francis Case, there were no significant flood risk impacts identified, and the project would not alter the PMF routing or operation of the Fort Randall Flood Risk Reduction Project.

4. Executive Order (EO) 11988 compliance is also required for any federal action, including activities on lands with federal interest (Corps of Engineers, Engineer Regulation 1165-2-26). This project is located on Corps of Engineers fee title. The

project has been reviewed for floodplain impacts and demonstrated compliance with EO 11988 criteria.

5. Please contact Ms. Laurel Hamilton at (402) 995-2338, or via email at laurel.j.hamilton@usace.army.mil for any further inquiries.

NEWBAUER.ROBERT.JULIAN.1097058934

Digitally signed by NEWBAUER.ROBERT.JULIAN.1097058934
Date: 2024.11.25 09:26:49 -06'00'

ROBERT J. NEWBAUER, P.E.
COL, EN
Commanding

BRIDGE PERMIT

3 APR 2025

(**5-24-8**)

WHEREAS by Title V of an act of Congress approved August 2, 1946, entitled "General Bridge Act of 1946," as amended (33 U.S.C. §§ 525-533), the consent of Congress was granted for the construction, maintenance and operation of bridges and approaches thereto over the navigable waters of the United States;

AND WHEREAS the Secretary of Homeland Security has delegated the authority of Section 502(b) of that act to the Commandant, U.S. Coast Guard by Department of Homeland Security Delegation Number: 0170.1;

AND WHEREAS before construction is commenced, the Commandant must approve the location and plans of any such bridge and may impose any specific conditions relating to the construction, maintenance and operation of the structure deemed necessary in the interest of public navigation, such conditions to have the force of law;

AND WHEREAS the - **STATE OF SOUTH DAKOTA** - has submitted for approval, the location and plans of a design build concept of a bridge to be constructed across the Missouri River between Platte and Winner, Gregory County, South Dakota;

NOW THEREFORE, This is to certify that the location and plans dated 28 March 2024 are hereby approved by the Commandant, subject to the following conditions:

1. No deviation from the approved plans may be made either before or after completion of the structure unless the modification of said plans has previously been submitted to and received the approval of the Commander, Eighth Coast Guard District.

2. The construction of falsework, pilings, cofferdams or other obstructions, if required, and the scheme for constructing the bridge shall be in accordance with plans submitted to and approved by the District Commander, prior to construction of the bridge. All work shall be so conducted that the free navigation of the waterway is not unreasonably interfered with and the present navigable depths are not impaired. Timely notice of any and all events that may affect navigation shall be given to the District Commander during construction of the bridge. The channel or channels through the structure shall be promptly cleared of all obstructions placed therein or caused by the construction of the bridge to the satisfaction of the District Commander, when in the judgment of the District Commander the construction work has reached a point where such action should be taken, but in no case later than 90 days after the bridge has been opened to traffic.

3. Issuance of this permit does not relieve the permittee of the obligation or responsibility for compliance with the provisions of any other law or regulation as may be under the jurisdiction of any Federal, state or local authority having cognizance of any aspect of the location, construction or maintenance of said bridge.

4. Prior to commencement of construction, the permittee shall submit to the District Commander for approval, plans showing the final design chosen for the construction of the bridge. The final design chosen shall, at a minimum, provide the navigational clearances as shown on the approved plan sheet 3 (of 4) dated 28 March 2024. Failure by the permittee to adhere to any part of this condition renders this permit null and void.

5. Clearance gauges shall be installed and maintained in a good and legible condition by and at the expense of the owner of the bridge when so required by the District Commander. The type of gauges and the locations in which they are to be installed will be submitted to the District Commander for approval.

6. All parts of the existing to-be-replaced Platte-Winner Bridge across the Missouri River, mile 921.1, not utilized in the new bridge shall be removed to an elevation at least one foot below the lowest surveyed channel elevation at the bridge crossing and the waterway cleared to the satisfaction of the District Commander. Bridge components that will be covered by the proposed new structure or associated riprap only need to be removed to an elevation that will not project into the new structure or riprap section. A period of 90 days subsequent to the opening to traffic of the new Platte-Winner Bridge, mile 921.1, will be allowed for such removal and clearance.

7. When the proposed bridge is no longer used for transportation purposes, it shall be removed in its entirety or to an elevation deemed appropriate by the District Commander and the waterway cleared to the satisfaction of the District Commander. Such removal and clearance shall be completed by and at the expense of the owner of the bridge upon due notice from the District Commander.

8. The approval hereby granted shall cease and be null and void unless construction of the bridge is commenced within three years and completed within five years after the date of this permit.

Brian L. Dunn
Chief, Office of Bridge Programs
U.S. Coast Guard
By direction of the Commandant

From:	Monterroza, Allan O CIV USCG D8 (USA)
To:	McCaslin, Ted
Cc:	Babcock, Chad; Brehm, Kevin; Bierle, Andrea
Subject:	RE: [EXT] Permit Forwarding Letter for the SD44 Platte-Winner Bridge, Mile 921.1 Missouri River
Date:	Wednesday, April 16, 2025 6:57:22 AM

Good morning Ted, The district commander is not requiring clearance gauges for the bridge.

R,

Allan O Monterroza
Bridge Management Specialist, Bridge Branch, Western Rivers
Department of Homeland Security
U. S. Coast Guard Eighth District Bridge Office
St Louis, MO 63103
314-269-2434 OFC
573-467-1414 Cell

-----Original Message-----
From: McCaslin, Ted <tmccaslin@hrgreen.com>
Sent: Tuesday, April 15, 2025 2:28 PM
To: Monterroza, Allan O CIV USCG D8 (USA) <Allan.O.Monterroza@uscg.mil>
Cc: chad.babcock@state.sd.us; Brehm, Kevin <kbrehm@hrgreen.com>; Bierle, Andrea <Andrea.Bierle@state.sd.us>
Subject: [Non-DoD Source] RE: Permit Forwarding Letter for the SD44 Platte-Winner Bridge, Mile 921.1 Missouri River

Allan,

Question about permit condition 5 - "Clearance gauges shall be installed and maintained in a good and legible condition by and at the expense of the owner of the bridge when so required by the District Commander. The type of gauges and the locations in which they are to be installed will be submitted to the District Commander for approval."

The new bridge plans do not include a clearance gauges at this time. Page 5 of the permit shows the maximum normal operating pool at 1365.96' and the minimum low steel bridge elevation at 1407.34' so 41.38 feet of clearance at maximum normal operation pool elevation. The spillway at Fort Randall dam at the downstream end of Lake Francis Case is 1375' and the 100-Year Pool elevation is 1374.96' so clearance would still be 32.34' at maximum reservoir elevation. The current bridge does not have clearance gauges.

Is the District Commander requiring clearance gauges as a condition of the permit? If so, is the appropriate submittal time at preconstruction similar to the Condition 2 temporary works items?

Thanks,

Ted

Ted McCaslin, AICP, PWS
Lead Environmental Planner - Transportation | Associate

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-----Original Message-----
From: Monterroza, Allan O CIV USCG D8 (USA) <Allan.O.Monterroza@uscg.mil>
Sent: Tuesday, April 15, 2025 9:52 AM
To: McCaslin, Ted <tmccaslin@hrgreen.com>
Cc: chad.babcock@state.sd.us; rachel.l.anderson@usace.army.mil; adam.r.nebel@usace.army.mil; catherine.d.juhas@usace.army.mil; zachary.h.hunt@usace.army.mil; Brehm, Kevin <kbrehm@hrgreen.com>; Thoreen, Timothy <tthoreen@hrgreen.com>
Subject: Permit Forwarding Letter for the SD44 Platte-Winner Bridge, Mile 921.1 Missouri River

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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
IRI BRIDGE SMOOTHNESS

PROJECT EM-P 0044(207)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

AUGUST 23, 2021

At locations designated in the plans, the Department will determine the smoothness of finished surfaces of bridge decks and approach pavement by International Roughness Index (IRI) profile testing in accordance with the following requirements.

The Department will use the FHWA Profile Viewing and Analysis (ProVAL) software to determine IRI and Areas of Localized Roughness (ALR).

A. Exclusions: Expansion joints and areas within approximately 1 foot of expansion joints, as allowed by ProVAL, are excluded from IRI acceptance profile testing under the requirement of this special provision.

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

B. Profiler: The Department will furnish and operate a profiler meeting ASTM E-950 Class 1 specifications. The Department will measure and analyze the surface smoothness of the final roadway surface profile using the IRI to the nearest 0.1 inch/mile.

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

C. IRI Acceptance Profile Testing: The Department will evaluate the surface smoothness by averaging the IRI on a bridge lane lot basis. A bridge lane lot is defined as a single paved lane, 12 feet wide, and is the entire length of the bridge deck plus the approach slab and approach pavement within 100 feet of each bridge end. the Department will apply the price adjustment (incentive/disincentive in Table 2) to the actual total length of the lot.

The Department will collect the profile data after the Contractor completes all work required for profiling, once all concrete has reached 4,000 psi, prior to the Contractor opening the roadway to traffic.

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

Prior to the anticipated day of IRI acceptance profile testing described below, the Contractor will perform all work required prior to the Department performing the IRI acceptance profile testing. The Contractor will be allowed to perform grinding prior to the Department performing the IRI acceptance profile testing. Grinding prior to the IRI acceptance profile testing must be accomplished in accordance with the corrective grinding requirements of this special provision. The Contractor may continue sweeping the roadway any time, as needed, prior to profile testing.

1. **Scheduling:**

   The following scheduling requirements will apply to the initial IRI acceptance profile testing and for any re-profile testing following corrective grinding.

   For scheduling purposes, the Contractor is responsible to contact the Materials and Surfacing Office at least 7 days prior to the anticipated completion of contract work requiring profile testing or corrective grinding work. In addition, the Contractor will contact the Materials and Surfacing office at least 2 business days prior to the anticipated day of profile testing or anticipated day of corrective grinding work to schedule the agreed upon anticipated day profile testing.

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

   - The Contractor has completed all work to be profile tested;
   - The Contractor has cleaned the surface of debris and other obstructions and has completed necessary sweeping;
   - The PCC pavement, approach slab, and bridge deck has reached 4,000 psi;
   - The Contractor has placed necessary traffic control devices;
   - The ambient air temperature is at least 40°F but not above 90°F; and,
   - Rain and other weather conditions determined inclement by the Engineer are not present.

2. **Operation:**

   The Department will measure the profile in the direction of traffic in each wheel path of 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.

a. **Evaluation:** The Department will evaluate the data collected and the data will remain the property of the Department. The Department will determine the average IRI for each bridge lot by averaging the IRI values from the two wheel paths for each pass (lane) to the nearest 0.1 inch/mile.

b. **Areas of Localized Roughness (ALR):** The Department will identify and mark ALR that require corrective action. The Department will use the ProVAL software's Smoothness Assurance Analysis to calculate 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 that require corrective action to a MRI of less than 250 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
250.0 or less	Acceptable
250.1 or greater	Corrective Grinding. The Engineer may limit the extent of corrective grinding allowed.

3. **Corrective Grinding:**

The Contractor will complete required corrective grinding in ALR within 21 calendar days of notification from the Department of which ALR require corrective grinding. If the project is constructed in phases, the Department may allow the Contractor to complete corrective grinding with the corrective grinding of a subsequent phase.

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 join grind sections if the distance between grind sections is less than 80 feet.

The Contractor will establish a positive means for removing 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.

The Contractor will repair and replace joint sealant damaged by corrective grinding as directed by the Engineer and at no additional cost to the Department. The Contractor will not leave ground areas smooth or polished. The Contractor will ensure ground areas have a uniform texture comparable to the surrounding unground concrete.

Where the corrective grinding extends more than 25 feet measured longitudinally along the centerline of the road, limestone is used as the coarse aggregate in the pavement, and the current ADT shown on the plans is greater than 1500; the Contractor will reestablish the tining with a mechanical tining machine.

Following the completion of corrective grinding, the Department will retest ALR and inform the Contractor where additional corrective grinding is required.

D. Incentive/Disincentive Payment: The Department will base incentive and disincentive payments on the average IRI determined for each bridge lane lot and will make incentive and disincentive payments based on Table 2:

Table 2 - IRI Pay Scale

IRI	**Price Adjustment**
Inches per mile	**Dollars per Foot of Each Bridge Lane Lot**
80.0 or less	$20
80.1 to 100.0	$10
100.1 to 130.0	$0
130.1 to 170.0	-$10
170.1 or greater	-$20

The Incentive and disincentive payment schedule is a fixed dollar amount per foot. The Department will determine the average IRI and total length of each bridge lane lot and apply the price adjustment listed in Table 2 to the entire length of the bridge lane lot.

Once the Department performs IRI acceptance profile testing, the Department will not adjust the incentive or disincentive payment for lots containing ALR that require corrective grinding, regardless of the average IRI after profile testing following corrective grinding.

E. 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.

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR DISC BEARING ASSEMBLY

PROJECT EM-P 0044(270)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

SEPTEMBER 21, 2023

I. DESCRIPTION AND SCOPE OF WORK

A. This work shall consist of designing, furnishing, testing, and installing Multi-Rotational, High Load Disc Bearings and Assemblies at the locations shown on the plans in accordance with this special provision and the latest version of the following specifications:

- SDDOT Standard Specification for Roads and Bridges
- AASHTO LRFD Bridge Design Specifications
- AASHTO LRFD Bridge Construction Specifications
- AASHTO/AWS D1.5 Bridge Welding Code

B. Disc bearings shall consist of a polyether urethane structural element (disc) confined by upper and lower steel bearing plates. The bearing shall be equipped with a shear resisting mechanism, and/or positive location device to prevent lateral movement of the disc. Bearings shall adequately provide for the thermal expansion and contraction, rotation, camber changes, and creep and shrinkage of structural members, where applicable. Assemblies shall also include all other plates and fasteners designated in the plans as part of the "Bearing Assembly".

C. Disc bearing supplier shall demonstrate a minimum of five (5) years' experience in the design and fabrication of disc bearings and a minimum of ten (10) bridge installations. Documentation of the supplier's experience and installations shall be provided to the Engineer for approval.

D. Shop Drawings - The Contractor shall submit drawings and calculations to the Engineer for approval, and shall have received said approval, prior to the fabrication of the disc bearing assemblies. The shop drawings and design calculations shall be sealed by a Professional Engineer, licensed in South Dakota, with at least five (5) years of documented history of disc bearing design experience. These drawings shall include, but not be limited to, the following information:

- Plan and elevation of each disc bearing.
- Complete details and sections showing all materials (with ASTM or other designations) incorporated in the disc bearings.

- Vertical and horizontal load capacities.
- All bearing connection details and welding procedures.
- Temporary support details for handling, transporting, storing, field adjustment, and installation.
- Design calculations verifying compliance with the current AASHTO LRFD standards and with the design loadings, movements, and other specified requirements.

II. MATERIALS

A. Materials shall conform to the following standards:

- Steel Plate: AASHTO M270 (ASTM A709) Grade 50W. All steel surfaces in contact with PTFE, or other steel surfaces, shall be finished to a smoothness of 125 micro- inches (rms) or better.
- Stainless Steel: ASTM A240, Type 304, with a minimum No. 8 mirror finish. The minimum thickness of stainless steel sheet shall be 12 gage.
- Polytetrafluoroethylene (PTFE): PTFE sheet shall be manufactured from pure virgin unfilled PTFE resin conforming to the requirements of the current AASHTO LRFD Bridge Construction Specification, Section 18.8.

B. All materials shall be new and unused, with no reclaimed material incorporated in the finished bearing.

C. Unless otherwise noted herein, all materials for the disc bearing assemblies shall be as specified in the plans and in accordance with Section 18 of the current AASHTO LRFD Bridge Construction Specifications.

D. Material test certificates shall be provided for all materials used in the bearing assemblies.

III. DESIGN REQUIREMENTS

A. Bearings shall be designed based on the current AASHTO LRFD Bridge Design Specification using the loads, rotations and movements given on the project plans. Designs shall assume that vertical and horizontal loads occur simultaneously. The design of the bearings shall meet the additional requirements listed herein.

B. The bearing assembly shall be removable and replaceable by raising the bridge superstructure 3/8 inch maximum. This requires the fabrication of a minimum of a four plate system including a masonry plate, lower bearing plate, upper bearing plate and sole plate. The design plans show a feasible bearing replacement connection detail. Approval of alternative connection details proposed by the Contractor shall be at the sole discretion of the Engineer.

C. The sole and masonry plates shall be designed to adequately transfer loads from the superstructure to the substructure. Service or installation considerations specified by the design Engineer, such as weldability and bearing height, may require thicker masonry and sole plates than are required due to strength considerations alone.

D. When necessary, guide bars shall be welded to the sole plates or integrally machined from a larger plate. Guide bars, and their connections, shall be designed for the specified horizontal loads, but not less than 25% of the vertical capacity of the bearing. Guided members must have their contact area within the guide bars in all operating positions. The total clearance between guide bars and the guided member shall be 1/16 inch, ±1/32 inch.

E. The shear restriction mechanism shall be designed to allow free rotation and withstand the specified horizontal forces. The mechanism shall be designed to withstand the design forces on the bearing without exceeding the allowable shear, bending and bearing capacities. Shear resistance of the urethane disc shall not be included.

IV. FABRICATION

A. The Contractor shall provide the Engineer with written notification prior to the start of bearing fabrication.

B. Unless otherwise noted herein, fabrication of the disc bearing, including tolerances, shall be in accordance with Section 18 of the current AASHTO LRFD Bridge Construction Specifications.

C. All welding shall conform to, and all welders shall be qualified in accordance with, the requirements of the American Welding Society (AWS).

D. After assembly, including sole plates and masonry plates as applicable, bearing components shall be held together with steel straps or other means to prevent disassembly prior to installation.

E. Each bearing shall be stamped with the manufacturer's name, bearing type or model number, bearing number and the location to be installed. The stamp shall be on a surface visible after installation.

F. All steel surfaces exposed to the atmosphere, except stainless steel surfaces and metal surfaces to be welded, shall be shop painted. Prior to painting, the exposed steel surfaces shall be cleaned in accordance with the recommendations of the paint manufacturer. All surfaces covered by stainless steel or PTFE sheet shall not be painted. Painting shall be completed in accordance with the paint manufacturer's recommendations and South Dakota Department of Transportation Specifications.

V. TESTING

A. Production bearing sampling and testing shall be performed in accordance with the current AASHTO LRFD Bridge Construction Specifications, Section 18.3.4. For sampling, the (8) guided bearings at Abutments 1 and 21 shall be considered one lot; the (24) guided bearings at Bents 6, 11 and 16 shall be considered one lot; the (32) guided bearings at Bents 2, 5, 7, 10, 12, 15, 17, and 20 shall be considered one lot; and the (32) fixed bearings at Bents 3, 4, 8, 9, 13, 14, 18, and 19 shall be considered another lot.

B. All testing shall be performed in the presence of a representative of the South Dakota Department of Transportation or its designated inspection agency in accordance with Section 18.1.5 of the current AASHTO LRFD Bridge Construction Specification.

C. The following test shall be performed on all disc bearing types (fixed and guided):

- Material certification testing - Refer to AASHTO Section 18.3.4.4.1
- Dimensional check - Refer to AASHTO Section 18.1.5.2.4.
- Clearance test - Refer to AASHTO Section 18.1.5.2.5.
- Proof load test - Load the bearing to 150 percent of the design service compressive load at a rotation of 0.02 rad for a duration of one hour. Refer to AASHTO Section 18.3.4.4.4.
- The horizontal load carrying capacity shall be tested per AASHTO 18.1.5.2.8.

D. The sliding coefficient of friction shall be measured for guided bearings per AASHTO 18.3.4.4.5.

E. Each bearing shall be visually examined both during and after testing. Any resultant defects, such as bond failure, physical destruction or cold flow of PTFE to the point of debonding, shall be cause for rejection. Defects such as permanently extruded or severely deformed elastomer or cracked steel shall also be cause for rejection.

VI. INSTALLATION

A. Bearings shall be installed in strict accordance with the manufacturer's instructions. The Contractor shall submit an installation procedure to the Engineer for review and acceptance prior to bearing installation, containing at a minimum:

- Installation sequence of the bearings in accordance with the accepted bridge superstructure erection sequence.
- Methods to support and shim the bearing assemblies.
- Methods for field setting and adjustments as required to compensate for installation temperatures and erection conditions in order to achieve the installation tolerances specified in Section 18 of the current AASHTO LRFD Bridge Construction Specifications.

B. A technical representative from the bearing manufacturer shall be present on-site to supervise the installation of the bearing assemblies.

C. Bearings delivered to the bridge site shall be stored under cover on a platform above the ground surface. Bearings shall be protected, at all times, from damage. When placed, bearings shall be dry, clean, and free from dirt, oil, grease, or other foreign substances.

D. Bearing devices shall not be disassembled unless otherwise permitted by the

Engineer or manufacturer.

E. Bearing assemblies shall be handled by their bottom surfaces only, unless specially designed lifting brackets are used. Do not lift bearings by their tops, sides and/or shipping bands. Lifting brackets shall be approved by the bearing supplier prior to use.

F. Upon final installation of the bearings, the Engineer shall inspect the bearing components to assure that they are level and parallel to within ± 0.005 radians. Any deviations in excess of the allowed tolerances shall be corrected.

G. Caution shall be taken to ensure that the steel temperature directly adjacent to the polyether urethane rotational element does not exceed 225°F. The polyether urethane disc must not be exposed to direct flame or sparks. In addition, no weld current shall pass between bearing plates on either side of the urethane disc.

VII. CERTIFICATION

After installation of all bearing assemblies and prior to acceptance by South Dakota Department of Transportation, the bearing manufacturer shall provide a written certification that the bearing assemblies have been fabricated, tested, and installed in accordance with the project requirements and manufacturer's requirements.

VIII. MEASUREMENT AND PAYMENT

Disc Bearing Assembly will be paid at the contract unit price per each bearing assembly. This will constitute full compensation for all costs associated with design, fabrication, testing, preparing concrete surfaces, installation of anchor bolts, grouting, and installation of the bearing assemblies (including all steel plates and fasteners below the sole plate).

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
DRILLED SHAFT CONSTRUCTION

PROJECT EM-P 0044(207)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

MAY 4, 2026

465.1 DESCRIPTION

This work consists of all labor, materials, equipment, and services required in the construction of drilled shafts.

465.2 DRILLED SHAFT CONTRACTOR AND PERSONNEL QUALIFICATIONS

The drilled shaft Contractor and its construction personnel must be experienced in this type of work. Experience must be relevant to anticipated subsurface materials, water conditions, shaft size, and special construction techniques required. Prior to the Preconstruction Conference, the Contractor must submit the following information to verify the firm's experience and the qualifications of personnel scheduled to perform the drilled shaft construction:

A. Submit a list of at least three projects successfully completed in the last five years, in which the drilled shaft Contractor installed drilled shafts of similar diameter, length and site conditions to those shown in the plans. Include a brief description and reference for each project listed. The list of projects must contain names and phone numbers of owner's representatives who can verify the drilled shaft Contractor's participation on those projects.

B. Provide the names and detail the experience of the on-site supervisors and drill operators for the Project. On-site supervisors must have at least five years of experience in drilled shaft construction, and drill operators must have at least three years of experience.

C. A signed statement that the Contractor has reviewed the Geotechnical Evaluation Report and has inspected the project site and all the subsurface information including soil or rock samples that are available in the West Fargo, ND offices of Braun Intertec. For information, contact Ezra Ballinger at 701-205-2515.

Work on any drilled shafts must not begin until the qualifications have been approved. The Engineer may suspend the drilled shaft construction if the Contractor substitutes unapproved personnel during construction. Requests for substitution of field personnel must be submitted to the Engineer for approval. Additional costs resulting from the suspension of work will be the Contractor's responsibility, and no extension of the contract completion date resulting from the suspension of work will be allowed.

The Contractor must have a minimum of one person who has fulfilled the qualifications required for drilled shaft field inspector certification on site during all drilled shaft construction activity. The representative(s) will be responsible for the Contractor's Quality Control (QC) of the drilled shafts during all phases of construction. The Contractor's QC representative(s) must have proof of certification as a Drilled Shaft Inspector by the National Highway Institute (Course No. FHWA-NHI-132070B and Course No. FHWA-NHI-132070) or an equivalent certification program approved by the Department.

465.3 MATERIALS

A. **Concrete:** Drilled shaft concrete will conform to the requirements of Section 460, except as modified by this Section.

B. **Controlled Density Fill:** Section 464

C. **Casing:** Casing will be smooth steel of sufficient thickness to withstand handling stresses, concrete pressure, surrounding earth and fluid pressures, and live load surcharges (if applicable), with a minimum thickness of 1.5 inches. The casing will be of the diameter specified and will have teeth at the bottom to facilitate proper seating of the casing into the plans-specified formation. Casing will be uncoated and does not need to be composed of weathering steel. Ensure that the casing is clean and watertight prior to placement in the drilled shaft excavation.

D. **Access Tubes for Crosshole Sonic Log (CSL) Testing:** Access tubes will be 2 inch I.D. steel pipe conforming to ASTM A53. The selected pipes must have a round diameter free of defects or obstructions, including any at the pipe joints, in order to permit a free, unobstructed passage of the source and receiver probes. The pipes must be watertight and free from corrosion with clean internal and external faces to ensure smooth passage of the probes and to secure a good bond between the concrete and tubes.

The pipes will each be fitted with a watertight shoe on the bottom, which can be penetrated from the surface to allow tip grouting, and a removable cap on the top.

E. Grout: Grout for filling the access tubes at the completion of the CSL tests will conform to the requirements of Section 460.2 or will consist of Portland cement, water, and a water reducing admixture mixed in the following proportions:

Portland Cement Type I or II ....1 Sack (94 lbs.)
Water..4.5 Gallons Maximum
Water Reducing Admixture ....Manufacturer's Recommendation
Fly Ash (Optional) ....20 Pounds Maximum

F. Thermal Sensors: Supply and install embedded thermal sensors conforming to ASTM D7949-14. Embedded thermal sensors must extend the full length of the drilled shaft and be attached securely to the reinforcing steel cage.

465.4 CONSTRUCTION REQUIREMENTS

A. Concrete Quality and Proportioning: The Contractor will design and be responsible for the performance of the concrete mix. Not less than 30 calendar days before beginning drilled shaft construction, the Contractor will submit the proposed concrete mix for review by the Department's Concrete Engineer. The concrete mix will have the following characteristics:

1. Minimum cementitious content of 680 pounds per cubic yard. The maximum cementitious content (total cement, fly ash, and other cementitious admixture) content will be 800 pounds per cubic yard. The Contractor will substitute a portion of the cement with Class F modified fly ash in accordance with Section 605. The amount of cement to be replaced will be 20% to 30% by weight. The ratio of substitution of fly ash to cement will be 1:1 by weight;

2. Coarse aggregate will conform to Section 820 and be either size #1, #1A, or #15;

3. Minimum 28 day compressive strength of 4500 psi;

4. Slump at time of placement will be between 6 and 8 inches for concrete that is placed by the tremie method. The slump at the time of placement will be between 7 and 9 inches for concrete that is pumped through a closed tremie. In addition, the slump will be maintained above 4 inches for 8 hours from the time of batching regardless of the placement method. Slump loss will be tested within 30 days prior to placing concrete in each shaft. Slump loss will be tested in accordance with SD 423 with the following modifications: test the slump at 4, 6 and 8 hours after batching;

5. Initial set of the concrete, as determined by the Engineer, will be obtained within 20 hours of completion of placing concrete for each drilled shaft;

6. Entrained air content of 6.5% with an allowable tolerance of +1.5% to -1.5%;

7. The mix design will establish a maximum water cementitious material ratio for the concrete mix (never to exceed 0.44).

The use of a water reducer will be required to achieve the above properties. Water reducers conforming to AASHTO M 194 Type C (Accelerating) and Type E (Water-Reducing and Accelerating) will not be permitted.

B. Drilled Shaft Installation Plan: Not less than 30 calendar days before beginning drilled shaft construction, the Contractor will submit an installation plan to the Department for the Department's opportunity for review. Any review by the Department of the installation plan is limited to general conformance with the contract plans and specifications only. The Contractor will send an email with the installation plan attached as a PDF to the Project Engineer and Office of Bridge Design. Upon request, the Project Engineer will provide the Contractor the appropriate email addresses. Within 14 calendar days of receiving the installation plan, the Office of Bridge Design will respond to the Contractor in one of the following ways: 1) No Exceptions Noted or 2) Returned for Revision. If the Department's response states "Returned for Revision", the Contractor must make the revisions and resubmit the installation plan for review as specified above. The Contractor will not begin drilled shaft construction until the Department has confirmed, in writing, a completed review with a response of "No Exceptions Noted". A response of "No Exceptions Noted" given by the Department will be subject to trial in the field and will not relieve the Contractor of the responsibility to satisfactorily complete the work. The Contractor must submit requests for modification of adopted procedures to the Engineer. The installation plan will provide the following information:

1. A list of all proposed equipment to be used and available on site including, but not limited to, barges, cranes, casing, drill augers, pilot bits, bailing buckets, final cleaning equipment, air lifts, dewatering pumps, tremies, concrete pumps, etc. Include the casing diameter and wall thickness in the equipment list. The drilling equipment must have adequate capacity, including power, torque and down-thrust, to create a shaft excavation of the maximum diameter specified to a depth up to 10 feet beyond the depths shown on the plans;

2. Details of the overall shaft construction sequence in each substructure unit or group of drilled shafts;

3. A detailed explanation of how the casing is to be installed;

4. A review of equipment suitability based on the Contractor's understanding of the site subsurface conditions. Include a project history of the drilling equipment that demonstrates the successful use of the equipment for drilled shafts of equal or greater size in similar subsurface conditions. List proposed equipment with manufacturer's specification and catalog data including cranes, drills, augers, bailing buckets, casing oscillators, casing twisters, vibratory hammers, final cleaning equipment, desanding equipment, tremies or concrete pumps, casing, etc.;

5. Details of shaft excavation methods to be used, including how to address sloping bedrock and methods of removing any obstructions such as boulders, details for any preboring of foundation material, and a disposal plan for excavated material;

6. Methods to be used to clean the shaft excavation and for checking the cleanliness and soundness of the rock socket sidewalls and bearing surface;

7. Details of the proposed method(s) for ensuring drilled shaft stability during excavation and concrete placement.

8. Method of monitoring plumbness and location of the shaft during construction;

9. Details of reinforcement centering devices and their spacing;

10. Details and methods for supporting and lifting reinforcing steel cages;

11. Details of the tremie tube that is to be used. Include all other details of concrete placement such as pumping, slicking the tremie, etc. Details for the disposal of contaminated concrete from a wet excavation will also be included;

12. The Contractor will verify all existing ground and water elevations and establish the elevations of any work platforms, etc. that may be used. These elevations will be included in the drilled shaft installation plan; and,

13. **CSL Testing Organization and Personnel:** The Contractor will submit the name of the independent testing organization and the names of the personnel conducting the CSL tests. The submittal will include documentation that the qualifications specified below are satisfied. The independent testing organization and the testing personnel will meet the following minimum qualifications:

    a. The testing organization will have performed CSL tests on a minimum of three deep foundation projects in the last two years.

    b. Personnel conducting the tests for the testing organization will have a minimum of two years' experience in CSL testing and interpretation.

C. General Requirements: A drilled shaft preconstruction meeting is required to be held a minimum of 5 working days prior to beginning drilled shaft construction. The meeting cannot be held before the Department has returned the Drilled Shaft Installation Plan with a "No Exceptions Noted" response. A representative from the bridge Contractor, drilled shaft subcontractor, concrete supplier, Area Office, and Office of Bridge Design is required to attend this meeting. The drilled shaft installation plan will be discussed at the meeting and the responsibilities of each of the parties involved clearly identified.

The Contractor will perform the excavation for the shafts through the various types of materials that are encountered. Once casings are seated in the chalk, drilling must commence immediately and the Contractor must provide a full crew to complete the excavation to the elevations and diameters shown in the plans, clean the shaft, perform the SQUID inspection, place the rebar cage (including CSL tubes and TIP cables), and fill the excavation to at least the bottom of the casing without delay. This requirement shall not be construed to mean construction joints are allowed in the drilled shafts. The chalk must not be exposed for more than 72 hours once final diameter is achieved, and continuous operations will be required to complete the required work within this timeframe. The maximum prebore diameter in the foundation material is 9'-6". In the event the chalk will be exposed for more than 72 hours, drilled shaft operations will cease, and the office of Bridge Design will be immediately notified. To preserve the design capacity of the chalk, the Contractor may be required to fill the excavation with Controlled Density Fill at no additional cost to the Department. The 72-hour requirement may be waived if the Contractor receives notice of a successfully reviewed procedure to protect the design capacity of the chalk for a period of time exceeding 72 hours.

For Drilled Shaft Concrete pours, fresh concrete shall be tested at the rate of one test per 10 cubic yards for the first 30 cubic yards of concrete placed. The first three concrete tests (one test for each 10 yards delivered) shall be taken before placing any concrete in the Drilled Shaft. Thereafter, one test shall be conducted for each 50 cubic yards of concrete placed for the duration of the concrete pour.

Contractor methods and equipment will be suitable for the intended purpose and materials encountered. All the equipment listed in the drilled shaft installation plan will be on the project site prior to the start of work. The following equipment is required to be available for use on the project site at all times during drilled shaft construction:

1. Tremie of sufficient length to reach the bottom of the drilled shaft;

2. Cleanout bucket of the proper size;

3. Graduated measuring device to determine excavation and water depth;

4. Pilot bit capable of drilling through rock;

5. A pump of sufficient discharge rate to remove the displaced water during underwater placement of concrete; and,

Upon completion of the excavation of a drilled shaft, a cleanout bucket no less than 12 inches smaller than the final diameter of the shaft will be used to remove all loose material from the bottom of the shaft. Wet shaft excavations will be cleaned using an air lift system. After the shaft has been tested and meets base cleanliness criteria, the reinforcing steel will immediately be installed and the concrete placed prior to start of excavation for another drilled shaft.

Vibrations caused by any work activities that may be detrimental to the freshly placed concrete will not be allowed for at least 72 hours after placement or until the concrete has attained a minimum compressive strength of 1600 psi. If the Engineer suspects that construction activities may be causing excessive vibration, a 2 x 4 will be laid across the top of the permanent casing containing the freshly placed concrete. A small container of water will then be placed on top of the 2 x 4. If the water surface remains calm, the construction activity will be allowed to continue. When the water surface shows any movement, vibrations are reaching the freshly placed concrete and the construction activities will be either stopped or altered such that vibrations at the freshly placed concrete are eliminated.

D. Permanent Casing Construction Method: The permanent casing construction method will be used for all drilled shafts on this project. This method consists of placing a continuous casing to a prescribed depth before excavation begins.

A vibratory hammer will be allowed to advance the casing through the alluvium. Driving the casing into the ground will not be allowed. The Contractor will twist the permanent casing into the chalk to achieve as watertight of a seal as possible. If full penetration cannot be attained, the Engineer may require excavation of material within the embedded portion of the casing or excavation of a pilot hole ahead of the casing or both until the casing reaches the desired penetration. Over reaming to the outside diameter of the casing may be required before placing the casing, as approved by the Engineer.

Other methods of seating the permanent casing may be used with the Engineer's approval.

Upon completion of drilling and cleaning, the Contractor will cut off the permanent casing to the plan shown cutoff elevation.

E. Excavation and Drilling Equipment: The Contractor will use excavation techniques that are technically adequate based on the geologic conditions encountered at the site. Excavation and drilling equipment will have adequate capacity including power, torque, and downward force. All excavation tools (whether for soil or rock) will be of adequate design, size, and strength to perform the work shown in the plans and described in this specification.

F. Reinforcing Steel Cage Construction and Placement: The reinforcing steel cage (consisting of longitudinal bars, spirals or tie bars, cage stiffener bars, spacers, reinforcing splices, crosshole sonic log (CSL) access tubes, embedded thermal sensors, and centralizers) will be a continuous unit in the excavated shaft. Placement of the reinforcing steel cage will take place immediately after the shaft excavation is inspected and approved by the Engineer and before concrete placement.

The reinforcing steel cage will be tied and supported in the shaft so the cage will remain within the specified tolerances. Welding of the reinforcing steel cage will not be allowed. Concrete centralizers or other approved noncorrosive centering devices will be used within 1 foot of the bottom. Centralizers will also be used at intervals not exceeding 5 feet along the length of the shaft. Each level of centralizers will be rotated 45 degrees in the horizontal plane relative to the level below. Concrete centralizers will be constructed of concrete equal in quality and durability to the concrete specified for the shaft. The concrete centralizers will have the ends beveled to minimize the potential for catching on obstructions during reinforcing steel placement and they will have a minimum of two tie wires cast in the concrete. Wrapping wires around the concrete centralizers to hold them in place is not an acceptable method of attachment. Any type of steel used as centralizers will be epoxy coated. The reinforcing steel cage will not be in contact with the bottom of the shaft.

The elevation of the top of the reinforcing steel cage will be checked before and after the concrete is placed. If the reinforcing steel cage is not maintained within the specified tolerances, corrections to the cage support will be made by the Contractor, as required by the Engineer. No additional shafts will be constructed until the Contractor has modified the reinforcing steel cage support to prevent vertical movement, in a manner satisfactory to the Engineer.

G. Installation of Crosshole Sonic Log (CSL) Access Tubes: The Contractor will install access tubes as detailed in the plans for CSL testing in all specified drilled shafts to permit access for the CSL test probes. The access tubes will be evenly spaced and securely attached to the interior of the reinforcement cage of the shaft as shown in the plans. The tubes will be as near to vertical and parallel as possible. Even moderate bending of the tubes will result in large regional variations of the data. The tubes will extend from 3 inches above the bottom of the drilled shaft to at least 4 feet above the construction joint. If the plans bottom of drilled shaft is lowered during drilling, the CSL tubes will also be extended. Under no circumstances should the tubes be allowed to rest on the bottom of the drilled excavation. During placement of the reinforcement cage, care will be exercised as to not damage the tubes.

After placement of the reinforcement cage, the tubes will be filled with clean water as soon as possible and the tube tops capped to keep debris out. The tubes must be filled with water and capped before the pouring of the concrete, otherwise debonding of the access tubes from the concrete will occur resulting in data which indicates poor quality concrete. The Contractor will ensure the tubes remain filled until grouting occurs. Care will be taken during the removal of the caps from the pipes after installation so as not to apply excess torque, hammering, or other stresses which could break the bond between the tubes and the concrete.

Upon completion of the CSL testing and acceptance of the drilled shaft by the Engineer, access tubes and any holes will then be completely filled with grout. The access tubes will be filled using grout tubes that extend to the bottom of hole. The access tubes will be cut off flush with the top of the drilled shaft.

H. Concrete Placement: Concrete must be continuously agitated in the hauling unit and be discharged within 135 minutes after the cement has been placed in contact with the aggregates. When the concrete temperature is 80°F or above, the time limitation will be reduced to 105 minutes. The interval between batches will not exceed 30 minutes.

The drilled shaft concrete will be placed immediately after the reinforcing steel cage is placed.

Concrete placement will be continuous until the shaft is full and uncontaminated concrete flows out of the top of the shaft, as determined by the Engineer. The use of spud vibrators or other vibrating tools in the drilled shaft concrete will not be permitted.

I. Underwater Placement of Concrete:

Tremie: The tremie pipe will be constructed of steel, and will be sized by the Contractor to continuously discharge concrete at the shaft base elevation in an operation lasting no longer than the time specified in the installation plan. Tremie pipes will have a minimum wall thickness of 0.500 inch, and a minimum inside diameter of 14 inches. The tremie pipe will be smooth and thoroughly cleaned of any hardened concrete, rust, and all other contaminants. The tremie pipe will be marked to allow determination of depth to the mouth of the tremie. Joints between sections of tremie pipe will be gasketed and bolted to be watertight under placement conditions. Instead of bolted joints, welded joints may be used if a smooth finish is maintained on the inside of the tremie pipe at the weld location.

A crane or other lifting device will be available to remove the tremie from the water for resealing or horizontal relocation.

Placement of underwater concrete will be a continuous operation. If an interruption of placement occurs, the interruption will not exceed 30 minutes without removal of the tremie and restarting the concrete placement according to the paragraph below. An interruption in concrete placement will not exceed the time for the concrete to change to a 4” slump or less. If the concrete attains a slump of 4” or less before the concrete placement is completed, concrete placement will cease and the concrete in the shaft will be rejected and removed from the shaft.

Starting/Restarting of the concrete placement by tremie will begin by sealing the bottom of the tremie with a watertight seal before placing the tremie into the water. The watertight seal will prevent water from entering the tremie, yet will be dislodged when concrete flow is initiated. The empty tremie pipe will be sufficiently heavy to be negatively buoyant when empty. The tremie pipe will be sealed, lowered to the bottom of the shaft or embedded at least 15 feet into the concrete, and completely filled with concrete. Fill the tremie slowly to avoid entrapped air and bridging. When full, the tremie will be slowly lifted 6 inches off the bottom to start concrete flow. The concrete supply will be continuous until soundings indicate the tremie has the required embedment. After being dislodged, the sealing device will either remain on the bottom or be retrieved by the Contractor.

The mouth of the tremie will always remain embedded in the fresh concrete a minimum of 15 feet unless the tremie is being completely removed from the water. At no time will the concrete be allowed to fall through water.

A tremie will not be moved horizontally while concrete is flowing through it. To relocate a tremie, lift it from the water, reseal, relocate, and restart as required above.

All vertical movements of the tremie will be made slowly and will be carefully controlled to prevent loss of seal. If loss of seal occurs, placement through that tremie will be halted immediately. The tremie will be removed, resealed, replaced, and restarted as directed above.

J. **CSL Testing:** All equipment, testing, and reporting procedures will be provided and performed in accordance with ASTM D6760 and the following.

1. **Testing:** The testing and analysis will be performed by an independent testing organization proposed by the Contractor and approved by the Engineer.

   The CSL testing will be performed after the shaft concrete has cured at least 96 hours. Additional curing time prior to testing may be required if the shaft concrete contains admixtures, such as set retarding admixture or water reducing admixture. The additional curing time prior to testing required under these circumstances will not be grounds for additional compensation or extension of time to the Contractor.

   After placing the shaft concrete and before beginning CSL testing of a shaft, the Contractor will inspect the access tubes. Each access tube that the test probe cannot pass through will be replaced, at the Contractor's expense, with a 2 inch diameter hole cored through the concrete for the entire length of the shaft. Location of the core hole will be determined by the CSL testing firm and will not damage the shaft reinforcement. Descriptions of inclusions and voids in cored holes will be logged and a copy of the log will be submitted to the Engineer. Findings from cored holes will be preserved, identified as to location, and made available for inspection by the Engineer.

2. **Equipment:** CSL equipment will consist of the following components:

   A digitizing card for conversion of analog CSL data to digital;

   A microprocessor based CSL system for recording, processing, analyzing, displaying and log printing of digitally converted CSL data;

Ultrasonic source and receiver probes capable of logging 2 inch I.D. pipes;

An ultrasonic voltage pulser to excite the source combined with a synchronized triggering system to prompt the recording system;

A depth measuring device used to correlate records with depth; and,

Appropriate filter/amplification and cable systems for CSL testing.

3. **Procedure:** For the CSL test, information on the shaft bottom and top elevations and length, along with construction dates must be provided to the testing organization before or at the time of testing. Ultrasonic transmitter/receiver probes are then lowered to the bottom of a pair of access tubes. All slack is removed from the cable to assure accurate depth measurements. The two probes are then pulled simultaneously as to maintain a near horizontal ray path between them. Measurement will be made at 0.2 foot intervals or less as the probes ascend the tube pairs. This process is repeated for all test paths along the outer perimeter as well as across the inner diagonals of the shaft. The data is analyzed and anomalies/defects characterized by longer travel times and lower signal amplitudes will be reported to the Engineer at the time of testing.

4. **CSL Results:** The CSL results will be presented in report form. Digitized raw data files will also be submitted with the report. This report will contain CSL logs and waterfall diagrams for each tube pair tested combined with an analysis of the first arrival time and compressional wave velocity along with the signal amplitude of the pulse versus depth. Any anomaly/defect zones will be discussed in the report where appropriate.

   The report will identify and provide detailed discussion of each anomalous zone detected by the CSL. Anomalous zones are areas where velocity reduction exceeds 20% of the shaft average velocity. Within these zones collect and process additional data to construct three-dimensional color-coded tomographic images with two-dimensional cross-sections between tubes within the anomalous zone.

K. **Thermal Integrity Profiling (TIP) Testing of Drilled Shafts:** All equipment, testing, and reporting procedures will be provided and performed in accordance with ASTM D7949-14 and the following.

1. **Testing:** The testing and analysis will be performed by an independent testing organization proposed by the Contractor and approved by the Engineer. The independent testing organization must have a licensed professional engineer supervising the testing and interpretation of results.

2. **Equipment:** Supply all equipment required to perform TIP tests including a computer-based TIP data acquisition system to monitor and record temperature versus time after casting. The equipment must have the ability to collect and record data at user-defined time intervals (usually 15 to 60 minutes).

3. **Procedure:** Conform to testing procedures in ASTM D7949-14, using Method B. Data acquisition and recording must begin as soon as practical after concrete casting has begun and must occur for a minimum of 48 hours. The supervising engineer for the TIP testing is responsible for starting time and duration of data acquisition and recording in a manner that achieves the desired results.

4. **TIP Testing Results:** The TIP testing results will be presented in report form submitted within five working days of completion of testing. The report must contain, for each shaft, the following information:

    - Graphical displays of all temperature measurements versus depth with elevations for top of shaft, bottom of casing and bottom of shaft noted;
    - Indication of unusual temperatures, particularly significantly cooler local deviations of the average at any depth from the overall average over the entire length;
    - Overall average temperature for use in determining shaft radius at any point;
    - Variations between embedded thermal sensors at each depth for use in determining reinforcing cage alignment.

L. **Construction Method Log:** The Contractor must maintain a construction method log during shaft excavation and concreting of each drilled shaft. This record must be available for the Engineer's inspection as directed. The log must contain, for each shaft, the following information:

- Shaft number, date and time of installation;
- Description and approximate top and bottom elevation of each soil or rock material, and final tip elevation;
- Level and variation of the piezometric surface;
- Excavation procedures and method used to stabilize the sides of the shaft and any seepage of groundwater;
- Quantity, type of obstruction material and drilling rate;
- Diameter of the as-built shafts;
- Plumbness and deviation of shaft location;
- Type, diameter and length of any casing left in place;
- Time, method and duration of placement of concrete;
- A chart showing quantity of concrete placed versus depth or elevation of top of concrete in shaft during placement;

- Other pertinent data relative to the installation.

M. Acceptance of CSL and TIP Tested Drilled Shafts: The acceptance of each drilled shaft will be the decision of the Engineer, based on the results of the CSL and TIP reports and other information about the shaft placement. Acceptance criteria will be as described in the most current edition of FHWA GEC-15, *Acceptance Procedures for Structural Foundations of Transportation Structures*. De-watering and grouting of the access tubes and any subsequent work above the construction joint of the drilled shaft will not be done until after the acceptance of each shaft. The Engineer will provide a response to the Contractor within 5 business days after receiving the test results and analysis submittal. Rejection of the shaft based on CSL will require conclusive evidence that a defect exists in the shaft which will result in inadequate or unsafe performance under service loads. If the CSL records are complex or inconclusive the Engineer may require coring or excavation of the shaft to verify shaft conditions. If no defect is encountered, the state will pay for all coring or excavation costs, including the grouting of all core holes.

In the case that any shaft is determined to be unacceptable, the Contractor will submit a plan for remedial action to the Engineer for review. Any modifications to the foundation shafts and load transfer mechanisms caused by the remedial action will require calculations and working drawings stamped by a SD registered Professional Engineer for all foundation elements affected. All labor and materials required to perform remedial shaft action will be provided at no cost to the Department and with no extension of the contract time.

N. Drilled Shaft Base Cleanliness: Drilled shaft base cleanliness requirements will consist of the following:

1. **Summary of Work:** The Specialty Testing Consultant hired by the Contractor will perform drilled shaft base cleanliness tests prior to concrete placement. The base cleanliness tests will be performed no more than 2 hours prior to commencing the shaft concrete pour.

2. **Base Cleanliness Equipment:** A **S**haft **Qu**antitative **I**nspection **D**evice (SQUID) will be used to assess the drilled shaft base cleanliness. The device will record and provide information regarding the drilled shaft base cleanliness upon completion of the drilling and cleaning process. The device will include the following components:

   SQUID Unit. Unless updated by the equipment manufacturer, the SQUID Unit will be a hexagonal shaped device with a height of approximately 25 inches, a diagonal of approximately 26 inches, and a weight of approximately 415 lbs. The unit will include three penetrometers each having a surface area of 1.55 in^2 to measure force and three displacement plates each having a diameter of 6 inches and a weight of 14.9 lbs to determine displacements. The unit will also be supplied with two downhole data transmission cables and two transmitter boxes for signal conditioning.

Kelly Bar Adapter. Drill rig Kelly bar dimensions vary depending upon the manufacturer and require an adapter to attach to the SQUID unit. For each drilling rig on the project, the Contractor will submit a completed Figure 1 to the SQUID equipment supplier two weeks prior to installing the initial drilled shaft with that drill rig.

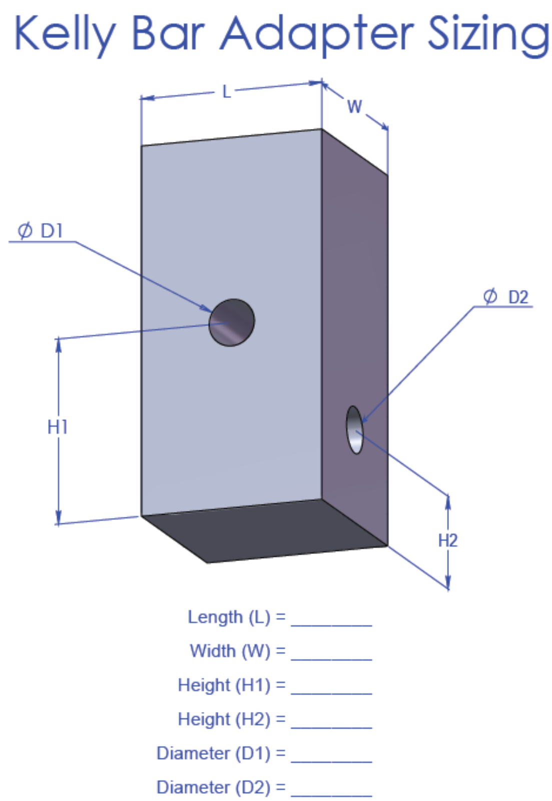

Figure 1. Kelly Bar Adapter Details

SQUID Tablet. The SQUID Tablet will have a sunlight readable display screen with a minimum screen resolution of 1024 x 768. The SQUID computer tablet will provide numerical and graphical display of all penetrometer and displacement plate results as well as a minimum 60 GB of internal memory storage. The Tablet will also be capable of remote operation via a high-speed internet connection.

The SQUID system is manufactured by Pile Dynamics, Inc., 30725 Aurora Road, Cleveland, OH 44139, USA. The manufacturer can be contacted at www.pile.com/pdi; email: info@pile.com; phone: +1 216-831-6131; fax +1 216-831-0916.

3. **Test Procedure:** The SQUID Unit will be pin-connected to the Kelly bar using a properly sized adapter provided by the SQUID equipment supplier or contractor. After the pin-connection and prior to testing, the verticality of the SQUID Unit will be checked and confirmed. The signal transmission from the SQUID Unit to the SQUID Tablet will also be confirmed prior to commencing the test. Signal transmission will be checked by manually lifting each displacement plate and observing the increasing displacement on the SQUID Tablet. After verticality and signal transmission checks are completed, the SQUID Unit will be moved over the open shaft excavation and lowered without rotation until the unit is approximately 2 feet above the shaft base.

   The test will proceed by slowly lowering the Kelly bar without rotation until the entire weight of the Kelly bar is transferred to, and is resting on, the SQUID Unit. Penetrometer force and plate displacement measurements will be continuously acquired, displayed, and stored on the SQUID Tablet during the test process. A test run will be terminated once two of the three penetrometers have registered a force greater than 0.5 kips or the maximum penetrometer travel of 6 inches is reached for any one of the penetrometers.

   With a shaft base diameter greater than three feet, SQUID runs will be performed in the center of the shaft as well as in four quadrants surrounding the shaft center. The SQUID Unit will be repositioned in one of the four perimeter quadrants (North, South, East, or West) around the shaft center and the process described above repeated. For each SQUID run, the average debris thickness determined using the force versus displacement results from a minimum of two penetrometers will be used to determine if the drilled shaft base condition meets the specified base cleanliness criteria or whether additional cleaning and retesting is required.

4. **Base Cleanliness Criteria:** Sediment, loose material, or debris at the base of the shaft is defined as a material that has a minimum resistance to penetrometer force of 0.020 kips. Natural soils are defined as materials that have a resistance to penetrometer force greater than 0.160 kips. The thickness of sediment, loose material, or debris at the base of the drilled shaft is defined as the difference in the displacement plate measurements that occurs between a penetrometer force of 0.020 kips to 0.160 kips.

   A drilled shaft base often contains irregularities from a level surface due to pilot holes or grooves from cutting teeth on drilling tools. Therefore, a SQUID run will be considered complete provided the debris thickness can be determined from a minimum of two force versus displacement plots.

A minimum of 50% of the drilled shaft base area will have a debris thickness less than 0.5 inch, and the maximum debris thickness at any location will not exceed 1.5 inches.

5. **Reporting:** SQUID test results will be reviewed by qualified personnel on-site or remotely connected by the internet to the SQUID unit prior to removing the SQUID unit from the drilled shaft excavation. Within one hour of completing the base cleanliness tests, a base cleanliness field report will be submitted to the Engineer for the tested drilled shaft. As a minimum, the base cleanliness field report will include the approximate location of the tests, the test date and time, a plot of the penetrometer force versus plate displacement for each SQUID run, the calculated debris thickness, and whether the shaft base cleanliness meets the specification requirements.

O. **Construction Tolerances:** The following tolerances apply to drilled shafts:

The drilled shaft will be within one twelfth of the shaft diameter or 3 inches, whichever is less, of the plan shown horizontal position, at the plan elevation of the top of the shaft.

The bottom of the shaft will be drilled to the plan shown elevation, within a tolerance of minus 0 inch, plus 6 inches.

The vertical alignment of the shaft excavation will not vary from the plan alignment by more than 1/4 inch per 1 foot of depth or 1.5% of total shaft length, whichever is less.

After all concrete is placed, the top of the reinforcing steel cage will be no more than 6 inches above nor more than 3 inches below plan position.

The diameter of the completed shaft will be the plan diameter with a tolerance of minus 0 inch, plus 2 inches.

The top of the shaft will be built to plan elevation with a tolerance of plus or minus 1 inch. The plan shown elevation of the top of shaft will not be changed without prior permission from the Office of Bridge Design.

Excavation equipment and methods will be designed so the completed shaft excavation will have a relatively flat bottom.

465.5 METHOD OF MEASUREMENT

A. **Class A45 Concrete, Drilled Shaft:** The plan quantity will be the quantity paid for unless a change is ordered in writing. If a change is ordered, measurement will be according to neat line dimensions specified in the change and quantities computed to the nearest 0.1 cubic yard.

B. **Drilled Shaft Excavation:** The plan quantity will be the quantity paid for unless a change is ordered in writing. If a change is ordered, measurement will be according to the neat line dimensions specified in the change and quantities computed to the nearest 0.1 cubic yard.

C. **Permanent Casing:** The length of casing from the plan shown cutoff elevation to the bottom of the casing unless otherwise specified in the plans. Permanent Casing will be measured to the nearest 0.1 linear foot, for each specified size of casing.

D. **Crosshole Sonic Log (CSL) Test:** will be measured by the number of shafts tested. CSL testing will only be measured once per shaft tested.

E. **Thermal Integrity Profiling (TIP) Test:** will be measured by the number of shafts tested. TIP testing will only be measured once per shaft tested.

465.6 BASIS OF PAYMENT

A. **Class A45 Concrete Drilled Shaft:** The accepted quantities of concrete will be paid for at the contract unit price per cubic yard. Payment will be full compensation for labor, equipment, tools, materials, and all incidentals required. All costs for furnishing, installing, cutting off, and grouting the CSL access tubes will be incidental to the contract unit price per cubic yard for Class A45 Concrete Drilled Shaft. Payment will be for plan quantity regardless of the amount placed. If a change is ordered, payment will be for the changed quantity at the contract unit price.

B. **Drilled Shaft Excavation:** The accepted quantities of excavation will be paid for at the contract unit price per cubic yard. Payment will be full compensation for labor, equipment, tools, materials, base cleanliness testing, specialty testing consultant(s), and all incidentals required, including blasting equipment and temporary casings. Payment will be for plan quantity regardless of the amount placed. If a change is ordered, payment will be for the changed quantity at the contract unit price

C. **Permanent Casing:** The accepted quantities of casing will be paid for at the contract unit price per linear foot, for each specified size. Payment will be full compensation for labor, equipment, tools, materials, and all incidentals required.

D. **Crosshole Sonic Log (CSL) Test:** The accepted quantity of CSL tests will be paid at the contract unit price per each test. Payment will be full compensation for all labor, equipment, tools, materials, services, and incidentals required to perform the tests and analyze the results. Payment will be made only once per shaft tested.

E. **Thermal Integrity Profiling (TIP) Test:** The accepted quantity of TIP tests will be paid at the contract unit price per each test. Payment will be full compensation for all labor, equipment, tools, materials, services, and incidentals required to perform the tests and analyze the results. Payment will be made only once per shaft tested.

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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
MODULAR EXPANSION JOINT ASSEMBLY

PROJECT EM-P 0044(207)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

SEPTEMBER 21, 2023

I. DESCRIPTION

A. This work shall consist of furnishing materials, services, labor, tools, equipment, and incidentals necessary to design, fabricate, inspect, test, certify and install the Modular Expansion Joint Assembly (MEJA) as specified herein. Additionally, this work will consist of the design, detailing and submittal of calculations and drawings for reinforcing steel required in the modular joint blockout in the bridge slab and in the bridge abutment backwalls. Minimum reinforcing requirements are provided in the design plans. The Contractor's engineer shall design and detail reinforcing meeting or exceeding these minimum requirements. The fabrication and installation of the galvanized barrier rail cover plates is also included herein.

B. Contractor shall provide a MEJA to accommodate the design movements. Contractor shall provide a MEJA that is either a single support bar system with sliding yokes or a welded multiple support bar system.

C. Contractor shall provide a MEJA with a single layer preformed elastomeric seal mechanically held in place by steel edge beams and center beams. Support the center beams on individual support bars for a welded multiple support bar system or on common support bars for a single support bar system. Allow for a maximum of 3 inches of movement in each elastomeric seal. Suspend the support bars over the joint opening using support boxes with internal sliding elastomeric bearings. For a welded multiple support bar system, a large support box to enclose the multiple support bars will be permitted. Control the joint opening with equidistant mechanisms that develop their maximum compressive force at the widest joint opening. In addition to any support of the joint from above prior to concreting, support the MEJA in the blockout from below with a positive support system at each support box designed to level the joint to the proper grade and slope.

II. MATERIALS

Furnish materials new and without defects. Remove defective materials from the jobsite at no additional cost. Materials for MEJA shall consist of the following:

A. **Blockout Concrete**: High Performance Concrete, Bridge Deck or as specified.

B. **Reinforcing Steel**: Epoxy Coated, Section 1010 of the Standard Specifications.

C. **Preformed Neoprene Strip Seal and Lubricant Adhesive**: AASHTO M 220.

D. **Structural Steel**: Section 970 of the Standard Specifications. Grade 36 minimum.

E. **Stainless Steel**: ASTM A 240 Type 304, with 2B finish.

F. **Stainless Steel Mating Surfaces**: ASTM A 240/A 240M Type 304. Minimum No. 8 mirror finish for mating surface. Minimum 16 gauge thickness for the stainless steel plate.

G. **PTFE**: 100% virgin Teflon, woven PTFE fabric or dimpled PTFE, AASHTO Section 18.8, Division II.

H. **Bolts, Nuts, Washers and other hardware**: Sections 970 and 972 of the Standard Specifications.

I. **Urethane Foam**: ASTM D 3574.

J. Springs, bearings, and equidistant devices to be the same material composition and formulation, Manufacturer, fabrication procedure, and configuration as those used in the prequalification tests.

III. DESIGN AND TESTING REQUIREMENTS

A. The MEJA shall be designed in accordance with the AASHTO LRFD Bridge Design Specifications, 9th edition, plus current interims, including the modifications and exceptions noted herein.

B. Fabrication and construction shall be in accordance with the AASHTO LRFD Bridge Construction Specifications, 4th edition, plus current interims, including the modifications and exceptions noted herein.

C. Prior to fabrication, submit complete details of the MEJA together with an installation and water tightness plan to the Engineer for approval. The following information shall be included in the submittal:

1. Complete reinforcing bar layout for the expansion joint blockouts based on the reinforcing layout and limitations provided in the plans. Integrate this layout with bars extending from the deck slab and if applicable the abutment backwall. The minimum reinforcing steel in the top of the blockout shall be No. 5 bars at

12 inches on center, in both directions. Provide complete details of the blockout reinforcing on design and shop drawings.

2. Plan and section views of the MEJA showing dimensions and tolerances. Provide a minimum of 3/8 inch material thickness for all structural steel elements.
3. Provide support boxes with a minimum steel thickness of 3/8 inch. For support boxes wider than 16 inches, provide a width to thickness ratio not to exceed 45.
4. Design and detail support bar bearing locations to provide adequate bearing stress resistance and avoid excessive edge loading of the blockout concrete. Provide calculations detailing satisfaction of this requirement.
5. In addition to the design requirements of AASHTO LRFD 14.5.6.9.4, design the support boxes to transfer stresses from wheel loads applied to the top surface of the box in the blockout areas and transferred through the box to the supporting concrete. Use the AASHTO LRFD tandem axle loads for the Strength Limit State design. Fatigue loading is in accordance with AASHTO 14.5.6.9.4. For the distribution of wheel loads to the support boxes, perform design calculations using a contact area measuring 20 inches (500 mm) wide and 10 inches long in accordance with AASHTO LRFD 3.6.1.2.5. Do not assume any benefit to load distribution from the concrete cover. Apply impact as required for the Strength and Fatigue Limit States.
6. Design the joint at the Strength Limit State for effects of snowplow loading in accordance with the requirements of AASHTO LRFD 14.5.1.2.
7. Detail all welded and bolted center beam or support bar joints and all shop or field splices.
8. When support bars are welded to center beams, use complete penetration groove welds and ultrasonically test 100% of the welds.
9. Provide complete details of all components and assemblies incorporated into the MEJA.
10. Provide all ASTM, AASHTO or other material designations.
11. Provide details of shipping, lifting, support and alignment details.
12. Provide temperature adjustment data in accordance with values shown in the plan drawings.
13. Provide a certificate of compliance with the AISC Quality Certification Program for Simple Steel Bridges for vendor-fabricated joints. Provide a certificate of compliance with the AISC Quality Certification Program for Major Steel Bridges for joints fabricated using third-party fabricators.
14. Provide certification that welding inspectors have current certification under AWS QC1, Standard for Qualification and Certification of Welding Inspectors.
15. Document that nondestructive test technicians are certified by ASNT.
16. Provide Manufacturer’s certificate of compliance for PTFE sheet / fabric.
17. Provide sealed engineering drawings and calculations prepared by a Professional Engineer licensed in the State of South Dakota for the proposed MEJA including designs for both the Fatigue and Strength Limit States as described by AASHTO LRFD Bridge Design Specifications, 9th Edition, Section 14.5.6.9 and referenced articles therein. At a minimum, all AASHTO requirements will be followed.
18. Provide test data and reports indicating the joint type, including all structural details, has been tested for compliance with NCHRP 402 – “Fatigue Design of Modular Bridge Expansion Joints.” Provide certification that the design to be furnished has passed the requirements of the Opening Movement and

Vibration Test (OMV), the Seal Push Out Test (SPO) and the Fatigue testing requirements of AASHTO LRFD Bridge Construction Specifications, 4th Edition, Chapter 19, Appendix A, as verified by an independent testing agency.

19. Provide a manufacturer's recommended maintenance and repair plan for the MEJA for review and approval of the Engineer. The plan should include a detailed description of recommended and required maintenance activities including maintenance inspection requirements, wear tolerances, methods for determining wear or deterioration, and procedures for replacing worn parts.
20. Detail any temporary bridging that may be required to allow construction traffic to cross the joint prior to complete installation. If construction traffic will not be permitted to cross the joint, include this in the installation plan as a restriction on operations.
21. Provide final accepted versions of all of the above documents to the Contracting Authority in Adobe Acrobat PDF format at the completion of the project.

D. In addition to a required longitudinal movement range as specified in the plan drawings for each location, provide a joint having the additional movement capabilities:

1. Transverse movement, 1.0 inch.
2. Vertical movement, 1.0 inch.
3. Rotation about longitudinal axis, 1 degree.
4. Rotation about transverse axis, 1 degree.
5. Rotation about vertical axis, 1/2 degree.

IV. CONSTRUCTION REQUIREMENTS

A. Fabricate the modular expansion joint assembly at facilities owned and operated by the manufacturer that is responsible for the design of the joint assembly. The facility must have a current AISC Simple Steel Bridge Certification. Alternately, provide a joint fabricated by an AISC Major Steel Bridge Certified fabricator with experience in fabricating MEJA's. Provide written certification of the fabricators experience. Provide welding conforming to ANSI/AASHTO/AWS Bridge Welding Code D1.5-2008.

B. MEJA shall be galvanized after welding. Fabricator shall thoroughly clean and remove excess galvanizing material from interior portions of steel extrusions prior to installing elastomeric seals.

C. Remove all debris from the concrete blockout prior to placing the concrete. Protect the joint blockout and MEJA from damage during all phases of construction. Use bridging to span the joint blockout during construction. Submit details of the bridging to the Engineer for approval.

D. Damage to the joint system during shipping, handling or installation shall be cause for rejection of the system.

E. Repair damage to the corrosion protection system to the satisfaction of the Engineer.

F. Design the MEJA, fabricate and deliver to the job site as a continuous unit. Field welding of the MEJA is not permitted.

G. Provide single piece seals. Seals will be installed in the shop, except when indicated otherwise. No splices are permitted. Joint seals are not permitted to extend above the joint. Design and detail the joint to allow for seal removal and replacement with a minimum of 1.25 inch space between adjacent center beams.

H. Provide edge beams and center beams machined or extruded to form the required profile. Multiple pieces welded to form the profile or bent / crimped to form the required profile are not
permitted.

I. Coordinate upturns at the exterior gutter lines with the barrier rail cover plate and conduit expansion and fitting details.

J. Provide a minimum of 3 inches of concrete cover above the top of the joint support boxes. As a minimum, install rebar in the blockout as directed on the plans. Provide a minimum of 2 inches of concrete under the support boxes. Provide a minimum of 2 inch clear cover to support boxes and anchor studs to the vertical face of the blockouts. Coordinate these requirements with the design and detailing of the blockouts and girder end copes. Blockout dimensions shall be reduced or enlarged as necessary to accommodate a particular joint design. Modify girder and if applicable the abutment backwall design accordingly if blockout dimensions and support slab details are to be changed. Submit calculations and drawings documenting all proposed changes from the as-designed drawings. Calculations and drawings shall be sealed by a Professional Engineer licensed in the State of South Dakota.

K. Furnish a joint such that the bearings and slide assemblies are removable and replaceable.

L. Install the joint system in strict accordance to the manufacturer's recommendations. A minimum of 2 weeks proceeding installation of the first joint, furnish to the Engineer, three copies of a detailed installation plan and instructions.

M. Arrange for an employee of the joint manufacturer who is experienced with the installation process to be present during installation of the joint to assist with any technical or construction issues. Adhere to all recommendations by the manufacturer's representative made both on site and off site. Arrange for the manufacturer's representative to certify to the Contracting Authority in writing that the installation adheres to the manufacturer's recommended installation procedures.

N. Furnish a system to expand or compress the joint system evenly to the desired joint opening for given installation temperatures. Temperatures correspond to structure temperature, not air temperature. Final adjustment of the joint opening shall be based on the manufacturer's recommendation immediately prior to placing the blockout concrete. Use a temperature sensing device to measure the slab temperature on the lower surface of the slab at both ends of the blockout. Use an average of these readings to determine the structure temperature at time of installation. Adjust the joint based on these structure temperature readings.

O. Align the joint to the roadway grade and cross-section. Install the joint flush with the top of deck.

P. Provide a level top of joint allowing no more than 1/8 inch differential elevation between any center beams and the edge beams measured using a straight edge between the two edge beams.

Q. Provide uniform gaps for all joint seals. The allowable difference in gaps at either end of a joint seal is 1/2 inch maximum.

R. To reduce corrosion potential, electrically isolate the MEJA by not connecting the bridge deck reinforcement to the MEJA.

S. Place concrete to completely fill the blockout. Thoroughly consolidate the concrete under the support boxes to completely fill the area. Do not use vibrators to move concrete. Prevent concrete from entering inside the support boxes or otherwise interfering with the proper operation of the joint system. Prior to placing the blockout concrete, coat all existing concrete with an approved bonding compound.

T. Do not allow construction vehicles to apply live load to the joint for a period of 72 hours. Use bridging to allow for passage of construction vehicles.

U. Leak Testing.

1. 1. After installation of all neoprene glands at one modular expansion joint, the contractor shall perform watertight integrity tests at the deck level to detect any leakage. The tests are to check for leakage at the upturned ends of the expansion device and for leakage along the expansion device across the deck. The contractor may conduct a single test of the entire device including upturned ends or may conduct separate tests of upturned ends and one or more tests of overlapping lengths between the upturned ends.
2. At each upturned end of the expansion device, the contractor shall block out on the deck at least 3 feet of the expansion device leading to the upturned end and flood the area. A minimum water depth of 3 inches shall be maintained at the gutter line for at least 30 minutes. During the test, the inspector shall observe for any overflow at the upturned end. At the conclusion of the test the inspector will examine the underside of the joint for leakage. The expansion device is considered watertight if the inspector observes no overflow during the test and if no dripping water or water droplets are visible in the underdeck areas near the upturned end.
3. The contractor shall test the expansion device between upturned ends by blocking out and covering the device with ponded or flowing water to a depth of at least 1 inch at all points, for at least 30 minutes. Vertical curb surfaces may be tested with an unnozzled hose delivering approximately 1 gallon per minute directed to flow over the entire curb height for 30 minutes. At the conclusion of the test, the inspector will examine the underside of the joint for leakage. The expansion device is considered watertight if no dripping water or water droplets are visible in the underdeck areas along the full length of the expansion joint. Damp concrete that does not show dripping water or water droplets is not considered a sign of leakage.
4. If the expansion device leaks at an upturned end or along its length, the contractor shall locate the leak(s) and take repair measures to stop the leakage. The repair measures shall be as recommended by the manufacturer and approved by the engineer prior to beginning corrective work.

5. If measures to eliminate leakage are taken, the contractor shall perform subsequent watertight integrity tests subject to the same conditions as the original test.

V. METHOD OF MEASUREMENT

Modular Expansion Joint Assembly will be paid for in linear feet at the quantity shown in the contract documents.

VI. BASIS OF PAYMENT

The contract unit price for the Modular Expansion Joint Assembly will be full and complete payment for all materials, labor, tools, equipment, inspection, services, and incidentals necessary to furnish and install the modular expansion joint assemblies as specified and at the locations shown in the plans, as well as to test each modular expansion joint, perform repairs if needed, retest following any repairs, and perform an additional leak tests immediately preceding the final inspection of the bridge. Also included are the design, detailing and construction of the MEJA blockout including required submissions to the Engineer, as well as fabrication and installation of the galvanized barrier rail cover plates.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR STAINLESS REINFORCING STEEL

PROJECT EM-P 0044(207)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

AUGUST 25, 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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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
CONCRETE PENETRATING SEALER

JULY 30, 2024

I. DESCRIPTION

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

II. MATERIALS

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

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

III. CONSTRUCTION REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IV. METHOD OF MEASUREMENT

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

V. BASIS OF PAYMENT

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

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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
MASS CONCRETE – PROTECTION OF MASS CONCRETE BY CONTROLLING HEAT OF HYDRATION
(INCIDENTAL)

PROJECT EM-P 0044(207)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

MAY 4, 2026

I. DESCRIPTION

A. This work consists of producing a mass concrete placement free of cracks caused or worsened by concrete heat of hydration. Accomplish this through appropriate concrete mix design and control of concrete temperatures and temperature differences. Use of concrete pre-cooling, concrete post-cooling, application of insulation or external heat, and/or selection of reduced heat of hydration concrete mix may be appropriate for this purpose.

B. Compliance with this specification may result in long durations of temperature control which could impact the sequence and schedule of planned work. The Contractor shall implement procedures to control concrete temperature that are compatible with the work plan and project schedule.

C. Mass concrete is defined as any concrete placement with a least dimension greater than six (6) feet.

D. This special provision does not apply to concrete used in drilled shafts.

II. MATERIALS

A. Concrete for mass concrete shall be Class A45 Concrete, Bridge in accordance with Section 460 except as modified by this provision.

B. Cement shall be as per section 750. A Portland blast furnace slag cement meeting M 240 may also be used if it meets equivalent MS or HS requirements for the type of cement required.

C. Fly Ash shall be as per section 753 and section 605 except the maximum total substitution of Portland cement shall not exceed 50%.

D. Cementitious material content shall be a minimum of 560 pounds per cubic yard.

E. Retarding admixtures may be used in accordance with the Standard Specifications.

F. The minimum compressive strength for mix design and for field acceptance will be determined at 56 days.

III. CONSTRUCTION REQUIREMENTS

A. Thermal Control Plan

1. General

a. Develop and submit a written Thermal Control Plan (TCP) to the Engineer describing the procedures that will be used to maintain compliance with the maximum temperature and maximum temperature difference requirements of Section III.B. The TCP shall provide sufficient detail to demonstrate the Contractor has performed adequate planning to verify and control maximum temperature and maximum temperature difference for the full duration of thermal control. Submit the TCP at least 30 calendar days before the first intended structural mass concrete placement.

b. Do not place concrete covered by this specification until the equipment and materials necessary to facilitate the plan are on site and ready for use, and the TCP has received written notice of successful review by the Engineer.

c. A successful review of the TCP does not relieve the Contractor from meeting the requirements of this special provision.

2. Thermal Control Plan Requirements

a. The TCP shall be developed by a Professional Engineer, licensed in the State of South Dakota and competent in the modeling, design and temperature control of concrete in mass elements (TC Engineer). The TC Engineer shall formulate, implement, administer and monitor the TCP, making adjustments as necessary to ensure compliance with the contract documents.

b. Use of thermal modeling shall be required. Thermal modeling shall predict temperature and temperature difference in the mass concrete placements and estimate the duration of thermal control. Thermal modeling shall consider the proposed thermal control measures and anticipated range of placement conditions and temperatures.

c. The TCP shall include, but not be limited to, the following:

1) A listing of the mass concrete placements addressed by the TCP, including dimensions of each placement.

2) The proposed concrete mix design.

3) The limits for concrete temperature, including initial placement temperature, maximum temperature after placement, and maximum temperature difference.

4) Procedures to maintain initial concrete placement temperature within the limits specified in Section III.B. This may include pre-cooling of mix components, scheduling of placements to optimize ambient weather conditions, or other approved means.

5) Procedures to manage concrete temperature and temperature difference after placement, as may be necessary. This may include insulation of formwork and finished surfaces, external heating, or other approved means.

6) Procedures and equipment used to monitor concrete temperature and temperature difference in accordance with Section III.B.5, including the location, quantity, and manufacturer's product data for the temperature sensors.

7) Procedures for corrective intervention during the thermal control period (addition or extraction of heat, as feasible) for production concrete, should temperature monitoring indicate potential or confirmed non-compliance with the maximum temperature or maximum temperature difference limit specified in Section III.B.

8) A list containing at least three mass concrete projects, of similar dimension and thermal control requirements to those shown on the plans, completed by the TC Engineer in the last 3 years. The list of projects shall include names and contact information of owner's representatives who can verify the TC Engineer's participation on those projects.

9) The calculated or measured adiabatic temperature rise of the concrete mix design.

10) The predicted maximum temperature in the mass concrete based on the expected conditions at the time of placement and the use of proposed measures to control temperature.

11) The predicted maximum temperature difference in the mass concrete based on the expected conditions at the time of placement and the use of proposed measures to control temperature difference.

12) Details of proposed measures to control mass concrete temperature and temperature difference, consistent with the TC Engineer's thermal model. The proposed measures shall be as needed to ensure compliance with maximum temperature and maximum temperature difference requirements.

13) The range of conditions, including concrete placement temperature range and ambient temperature range, for which the TCP is appropriate.

14) The estimated duration of thermal control.

B. THERMAL CONTROL REQUIREMENTS

1. Concrete Placement Temperature

a. The concrete temperature at time of placement shall not exceed 70°F and shall not be less than 40°F.

b. Maximum concrete temperature at the time of placement may be modified by the TC Engineer, when supported by thermal analysis. In no case shall the maximum concrete temperature at time of placement exceed 90°F.

2. Maximum Concrete Temperature

a. The maximum temperature within the mass concrete shall not exceed 160°F.

b. The maximum temperature will be evaluated at each temperature sensor location placed in accordance with Section III.B.5 (includes standard and conditional sensors, as applicable).

3. Temperature Difference Limit

a. The maximum temperature difference between the interior of the section and the surface of the section shall not exceed the specified limits.

b. The maximum temperature difference will be evaluated at each surface sensor location placed in accordance with Section III.B.5 (includes standard and conditional sensors, as applicable). Temperature difference will be calculated as the difference between the temperature of the center of mass sensor and the temperature at each surface sensor location, respectively.

1) Mass concrete placements shall satisfy the temperature difference limits in the following table:

Hours after Placement	Maximum Temperature Difference, ^{o}F
0-24	20
24-48	30
48-72	40
72	50

2) Alternate Temperature Difference Limit (ATD)

a) The temperature difference limit may be modified by the TC Engineer, when supported by thermal analysis.

b) The ATD shall be developed by the Contractor and TC Engineer using measured properties of the concrete mixture. Pre-development of a compressive strength maturity curve for the concrete mixture shall be required, in accordance with ASTM C1074. The ATD shall only be considered valid for the specific mix tested. In the absence of a valid and approved ATD, the temperature difference limits of Section III.B.3.b shall apply.

(1) Required Pre-Testing to Develop the ATD

(a) The Contractor shall obtain test results using cylinders from the same batch of concrete that are properly fabricated, cured at standard laboratory conditions, and are 14 to 56 days old at the time of testing.

(b) Two cylinders will be tested in accordance with the current version of AASHTO T336 (CTE). Three cylinders will be tested in accordance with the current version of ASTM C496 (tensile strength). Three cylinders will be tested in accordance with the current version of ASTM C469 (elastic modulus), and these cylinders will then be tested in accordance with ASTM C39 (compressive strength). Testing shall be performed by an AASHTO-accredited laboratory with experience performing the listed test methods.

(c) All ASTM C39, ASTM C496, and ASTM C469 testing shall be performed on the same day. The test reports must include a statement from the laboratory that this requirement was met, and test reports must be included with the TCP.

(d) The laboratory shall report the individual and average value for each test method, and these averages shall be used in the calculations described in Section III.B.3.b.2. The strength and modulus shall be reported in units of psi and CTE shall be in units of inch per inch per °F.

(e) The following equations shall be used to determine the T-factor and E- factor to be used in accordance with Section III.B.3.b.2:

T-factor = $\frac{f_t}{f_c}$

E-factor = $\frac{E}{\sqrt{f_c}}$

Where:
T-factor = tensile strength factor
E-factor = elastic modulus factor
f_c = compressive strength (psi)
f_t = tensile strength (psi)
E = Elastic modulus (psi)

(2) Calculating the ATD

The following equation shall be used to calculate the ATD. The ATD shall be limited to a maximum of 75°F.

$$\text{ATD} = \varphi * \frac{T-factor * \sqrt{IPS}}{E-factor * R-factor * CTE}$$

Where:
ATD = alternate temperature difference limit (°F)
T-factor = tensile strength factor
E-factor = elastic modulus factor
R-factor = restraint factor, taken as 0.38 unless otherwise justified and approved

CTE = coefficient of thermal expansion of the concrete (in. /in. / °F)
IPS = in-place compressive strength of the production concrete, calculated using maturity methods per ASTM C1074 (psi)
φ = 0.90

(3) Use of the ATD

The TCP shall report the estimated ATD at 1-hour intervals, in graphical or tabular format. The estimated ATD shall be based on the predicted thermal behavior of the concrete mass, the pre-tested material properties, and the pre-developed maturity curve for the mix. The TCP must demonstrate that the predicted concrete temperature difference will not exceed the estimated ATD at any time during the thermal control period. The estimated ATD shall not be considered the contractual ATD. The contractual ATD shall be calculated with the equation in Section III.B.3.b.2 at the time of construction, using the in-place compressive strength of the production concrete as determined using concrete maturity methods per ASTM C1074, based on the temperature sensor data that provides the lowest estimate of concrete maturity.

4. Duration of Thermal Control

Thermal control of each placement shall begin when concrete is first placed into the formwork. Thermal control shall be maintained until the temperature of the interior is within the maximum temperature difference limit (from Section III.B.2.a, or Section III.B.2.b) of the average ambient air temperature. The average ambient air temperature shall be determined by averaging the daily high and low temperatures over the preceding seven calendar days.

5. Temperature Sensing and Recording

a. The purpose of temperature monitoring is to demonstrate that the maximum temperature and maximum temperature difference limits are not exceeded.

b. Temperatures shall be recorded automatically by approved commercial temperature monitoring equipment furnished by the Contractor. The monitoring equipment shall be capable of continuously recording a minimum of one reading per hour for the entire duration of thermal control. When electronic sensors are used, the Contractor shall ensure the sensors have sufficient power supply to achieve the required monitoring interval and duration. The equipment shall be accurate to within +/- 2ºF in the temperature range of 32ºF to 185ºF.

c. One pair (two sensors) shall be installed at each designated location for redundancy. The Contractor shall be required to extract and report temperature data from one primary sensor per location but shall be prepared to extract and report temperature data from the backup sensor should the primary sensor malfunction. For sensors that require a separate data logger and/or data readout device, the Contractor must have prompt access to a backup data logger and/or readout device, should the primary device(s) malfunction.

d. The required number of temperature sensors shall be dependent on the mass concrete placement size, location and boundary conditions. Most mass concrete placements will utilize four pairs (eight total) of temperature sensors placed in accordance with Section III.B.5.e.1. Mass concrete elements with large volume, potential for water inundation, or other circumstances identified by the Engineer necessitate placement of additional sensor pairs. The Contractor shall be required to apply and maintain thermal control measures in a uniform and consistent manner across the entirety of the concrete element, such that surfaces and locations without temperature sensors are sufficiently represented by surfaces and locations with temperature sensors, to the TC Engineer’s and Engineer’s satisfaction.

e. Temperature sensors (one pair at each location) shall be installed in accordance with the following:

1) Standard Sensor locations

- Center of mass of the placement.

- Midpoint of the side surface or top surface which is the shortest distance from the center of mass (2 inch to 4 inch cover).

- Midpoint of the side surface or top surface with is the second-shortest distance from the center of mass (2 inch to 4 inch cover).

- Ambient air temperature. Ambient air temperature sensors shall be located at the project site, in a fully shaded location in the vicinity of the mass concrete placement, away from artificial sources of heat.

2) Conditional Sensor Locations

- For mass concrete placements exceeding 400 cubic yards volume, provide one additional pair of temperature sensors per each 400 cubic yard interval of concrete placed. The location of the sensor pair(s) shall be recommended in the TCP by the TC Engineer, subject to the Engineer's approval.

- For mass concrete placements for which post-cooling is utilized, provide two additional pairs of temperature sensors for monitoring the temperature of the cooling water. One pair of sensors shall be placed to monitor water temperature at the inlet of the cooling pipe system, and one pair of sensors shall be placed to monitor water temperature at the outlet of the cooling pipe system.

C. Production Concrete

1. General

a. Place mass concrete in accordance with the contract documents and the approved TCP. Use only the successfully reviewed concrete mix design identified in the TCP. The location of construction joints shall be as shown in the plans.

b. No work will be allowed on a concrete element while it is in thermal control, unless a plan for maintaining the specified temperature difference limit during such work is submitted and approved.

2. Pre-Cooling of Concrete

Pre-cooling of the concrete mix or mix components may be permitted using approved methods. Approved methods may include pre-wetting or pre-cooling of mix components, substitution of cubed or flaked ice for mix water, and/or liquid nitrogen injection. Use of dry ice shall not be permitted to pre-cool concrete. Designate the methods of pre-cooling in the TCP, if applicable.

3. Post-Cooling of Concrete

a. Post-cooling (cooling pipes embedded in the mass concrete elements) may be used at the Contractor's option, for purposes of controlling maximum concrete temperature or temperature difference and/or expediting the duration of thermal control.

b. For mass concrete placements with cooling pipes, the temperature sensors in the concrete placement shall remain near the locations specified in Section III.B.5 but shall be shifted to be midway between any adjacent cooling pipes. Concrete cover to the sensor shall remain 2 to 4 inches as specified in Section III.B.5.

c. The TC Engineer may propose modification to these requirements in situations where cooling pipes are used at the Contractor's option:

- Cooling pipes shall consist of small diameter (3/4 or 1 inch) plastic pipe.

- Cooling pipes shall be uniformly spaced throughout the mass concrete placement. A minimum of 3.0 linear feet of cooling pipe shall be installed per each cubic yard of concrete.

- Joints between sections of pipe should be outside the concrete, when feasible. Pipe joints located within the concrete mass shall be detailed in the TCP and shall be subject to the Engineer's approval.

- Cooling water shall constantly flow through the cooling pipes during the entire duration of thermal control.

- The flow rate of cooling water shall not be less than 3.0 gallons per minute in each cooling pipe. Higher flow rates may be required to achieve adequate cooling.

- Do not allow the cooling water in the cooling pipe system to freeze. When using water from a natural source, take measures to avoid blockage of pumps and pipes with debris/silt. Such measures may include debris guards, screens, or other means.

- The temperature rise of the water in the cooling pipes, from entry to exit, shall not exceed 3°F. Use multiple shorter cooling pipe loops rather than fewer longer cooling pipe loops.

- Use cooling water of a consistent temperature. Do not permit the cooling water to change in temperature by more than 20°F per hour. Do not use cooling water that is colder than 33°F nor warmer than 90°F.

- The pipe-to-surface spacing shall be less than the pipe-to-pipe spacing.

- All cooling pipes shall have valves to regulate the flow of cooling water.

- Protect cooling pipes from damage during placement of concrete. Have repair materials on site for use, as needed.

- Obtain permits, where necessary, for using hydrant or natural water as cooling water in the cooling pipes.

- Where practical, route cooling pipes into and out of the concrete placement through construction joints. Use blockouts to facilitate patching where pipes penetrate other surfaces.

d. After thermal control is complete:

- Flush cooling pipes with fresh water if the cooling water contained glycol. Properly dispose of such materials.

- Inject cooling pipes with an approved non-shrink grout.

- If cooling pipes penetrate a finished surface, cut-off cooling pipes 4 in. below the surface and patch the surface with an approved non-shrink patching material. For surfaces visible to the public, patching material shall be of consistent color and general aesthetic compatibility with the mass concrete element.

4. Insulation

When insulation is used, insulation should be uniformly installed on each surface that requires insulation. Do not allow water or wind to compromise the effectiveness of the insulation.

5. External Heating

If external heat must be applied, apply heat uniformly across the entire surface. Do not concentrate heat. Do not allow any portion of the surface to become warmer than the interior temperature. Designate the details and methods of external heating in the TCP, if applicable.

D. Temperature Reporting

1. Recording of temperature data shall begin at the initiation of thermal control, and shall continue until the completion of thermal control, as defined in Section III.B.4. Recorded temperature data shall be reviewed by a representative of the Contractor at intervals not exceeding 8 hours. A copy of all recorded temperature data shall be furnished to the Engineer as the information is obtained.

2. A final report shall be furnished to the Engineer within 7 days of completion of monitoring for each mass concrete placement. The final report shall include, but not be limited to, the following:

   a. All measured hourly temperature data (time, date and temperature) from each temperature sensor, in tabular format.

   b. Identification and location of each temperature sensor.

   c. A single graph showing the time versus temperature data for each temperature sensor location within the placement, for the full duration of thermal control. The maximum temperature limit shall also be shown on the graph.

   d. A single graph showing the time versus temperature difference data, calculated in accordance with Section III.B.3, for the full duration of thermal control. The maximum temperature difference limit shall also be shown on the graph.

   e. A statement of whether the maximum temperature and/or temperature difference limit was exceeded. If the maximum temperature and/or temperature difference limit was exceeded, indicate at what time(s) and at what sensor location(s).

E. Corrective Actions

1. If the temperature or temperature difference within the mass concrete placement exceeds the limits of this special provision, corrective action shall be taken by the Contractor. Immediate steps shall be taken to bring the concrete element back into compliance with temperature requirements, as feasible and as recommended by the TC Engineer. Future placement of mass concrete shall be suspended, and a revised TCP shall be submitted to the Engineer for approval. Do not resume placement of mass concrete without written approval from the Engineer.

2. Following completion of thermal control for any mass concrete element that exceeds specification limits for maximum temperature or temperature difference, an investigation plan shall be developed and implemented by the Contractor and TC Engineer, subject to the Engineer's approval. The investigation plan shall assess whether the non-compliant temperature or temperature difference may have impacted the structural integrity or durability of the mass concrete element.

3. A corrective action plan shall be proposed by the Contractor and TC Engineer, based on the results of the investigation. Final determination of corrective actions shall be by the Engineer, which may include, but shall not

be limited to, price adjustment, epoxy injection of cracks, a combination of both, or removal of the non-complying concrete. The cost of investigation and corrective action shall be borne by the Contractor. No compensation of time or expense will be granted by the Department for investigation or correction of non-compliant mass concrete elements.

IV. METHOD OF MEASUREMENT

Protection of mass concrete by controlling heat of hydration will not be measured.

V. BASIS OF PAYMENT

No separate payment for protection of mass concrete by controlling heat of hydration will be made. All costs involved in developing a TCP, developing a concrete mix design, furnishing and installing sensors, equipment and other thermal control elements (whether inside or outside the mass concrete placement), including any incidental items will be included in the contract unit price per cubic yard for Class A45 Concrete, Bridge.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR CONTRACTOR STAKING WITH MACHINE CONTROL GRADING OPTION

PROJECT EM-P 0044(207)290, PCN 05X0
CHARLES MIX & GREGORY COUNTY

AUGUST 25, 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 Contractor may elect to use grading equipment with an automated machine control system for Machine Control Grading (MCG) provided the equipment and methods used provide the same results in the finished work as conventional construction staking. The Engineer may require the Contractor to revert to conventional staking methods for all or part of the work at any point during construction if, in the Engineer’s own opinion, the MCG produces unacceptable results.

The Department will not allow the Contractor to use MCG as a substitute for conventional construction staking for slope staking and slope stake referencing, paving hub staking, structure staking, miscellaneous staking, or final cross section surveying.

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

The Contractor will perform all construction layout and reference staking necessary for the accurate control and completion of all structures, grading, paving, drainage, median crossovers, signing, pavement marking, permanent benchmarks, detours, fence, and all other appurtenances required for the complete construction and acceptance of the work. The layout will include, but is not limited to, staking 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.

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

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

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

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

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

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

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

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

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

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

B. MATERIALS

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

C. CONSTRUCTION REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

The Contractor will furnish stakes and wooden hubs or steel pins of sufficient length to provide a solid set in the ground. The Contractor will place half-length lath stakes or stake chasers or an alternate, acceptable to the Engineer, adjacent to or on the blue top hubs for guards. 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.

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

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

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

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

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

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

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

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

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

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

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

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

2. **Slope Staking:** The Contractor will set slope stakes at the catch points. The slope stake reference hubs will be offset behind the slope stake. The Contractor will place slope stake reference hubs behind the slope stakes at 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 survey computations are completed and accepted by the Department.

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

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

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

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

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

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

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

The Contractor will not be required to set grade stakes at the top of the base course. If the Contractor deems it necessary to place grade stakes to achieve typical section as per section 260.3 A of the specifications, the staking will be incidental to the contract unit price for base course.

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

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

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

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

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. Perform measurement and computation of topsoil quantities. The Contractor will perform volume computations by the average end area method, surface-to-surface method, or alternate computation method approved by the Engineer;

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 in accordance with the bid item 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. Perform measurement and computation of quantities of Contractor and State furnished borrow pits. The Contractor will perform volume computations by the average end area method, surface-to-surface method, or alternate computation method approved by the Engineer;
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.

D. METHOD OF MEASUREMENT

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

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

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

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

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

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.

E. BASIS OF PAYMENT

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

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

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

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

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

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

   The Department will make partial payment as follows:

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

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

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

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

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

* * * * *

THE FOLLOWING UTILITY COMPANIES ARE INVOLVED ON

PROJECT P 0044(207)290, Charles Mix, Gregory County, PCN 05X0

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 3, 2022, that if their facility is located within the existing public right-of-way, any adjustment of their facility would have to be accomplished at no cost to the State, **within 90 days from receipt of the notice, unless other arrangements are made with the Area Engineer.**

(1) Charles Mix Electric
PO Box 10
Lake Andes SD 57356-0010
CONTACT: Chad Loeffler, TELE. #605-487-7321
Email: Loeffler@CME.coop
CME has taken prior avoidance measures and installed new power facilities with the GFP project to avoid conflicts with this construction project. CME's retained facilities start at an existing junction box at approximately STA. 933+30-150' R and provides service to the Environmental Sensor Station. From the junction box at STA. 933+30-150' R single-phase power proceeds east at approximately 195' R to a junction box at approximately STA. 938+00-185' R and continues east to a junction box at approximately STA. 944+55-145' R. Service lines from these junction boxes presently provide power to the existing GFP residence, existing maintenance shop, and intern camping spots. When the new GFP residence and new maintenance shop are operational these service lines will be cut and abandoned-in-place. From the existing junction box at approximately STA. 944+55-145' R new underground power was installed south to approximately 944+65-324' R, it then turns east and follows along the north side of the GFP's south campground's private drive then proceeds out of the project limits. The new power continues around the south slide area from approximately STA. 948+00 to approximately STA. 104+20 R where it enters SD Hwy 44's south right-of-way. The Company has abandoned the existing 3-phase underground power from approximately STA. 944+55-120' R to approximately STA. 966+91-144' L. The junction box at approximately STA. 956+72-5' R will be removed prior to construction. Locations of new powerlines and avoidance routes are indicated in red solid lines in the image below. CME's all newly installed power as well as their existing power has a minimum depth of 4' of cover. Powerlines that were retained in the relocation process are indicated by red dashed lines in the image below. Because an agreement with SDDOT was executed to establish avoidance routes prior to this project, 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) Midstates Communications
PO Box 48
Kimball SD 57355-0048
CONTACT: Lantz Brennan, TELE. #605-778-6012 or CELL 605-680-0979
Email: lantz@midstaff.net
Midstate has taken prior avoidance measures and installed new fiber optic facilities with the GFP project to avoid conflicts with this construction project. Midstate retained facilities start approximately at STA. 933+48-158’ R with a new underground handhole and service to the Environmental Sensor Station. Midstate installed new fiber optic cable from the handhole at approximately STA. 933+48–158’ R to approximately STA. 933+48-333’ R and then east to STA. 954+10-333’ R where the fiber turns south on an avoidance route shown as an orange solid line in the image above. The fiber crosses present SD Hwy 44 to a handhole at approximately STA.104+20 in the north ditch, east of the Project End. Midstate’s avoidance route to the north is outside the limitations of construction and shown in image above. New fiber service lines were installed to the new GFP residence at 18” depth and new GFP maintenance shop at a 3’ depth. Both service lines are still inactive. Midstate will abandon-in-place all fiber lines that reside in the north ditch of present SD Hwy 44 between approximately STA. 933+48 to approximately STA.104+20. Midstate has removed all structures except a Node Cabinet at STA. 941+45-160’ R. This Node Cabinet will be removed and existing fiber services abandoned-in-place when they are no longer in use at existing GFP Facilities. These are identified in the above image as yellow solid lines. Locations of new handholes are indicated by the orange hexagons in the image above. Midstate installed all new fiber in the right-of-way at a minimum depth of 42” and on private property at a minimum depth of 36”. Because an agreement was executed to establish avoidance routes prior to this project, 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) South Dakota Game Fish and Parks
523 E Capitol Ave
Pierre SD 57501
CONTACT: Adam Kulesa, TELE. #605-773-5526
The GFP has new and existing underground water lines throughout the construction project. All utilities will remain in service at the existing GFP house location until the GFP relocates the existing house mid-late summer of 2025. The GFP installed new water lines starting at the new GFP house at approximately STA. 941+40-300’ L. to approximately STA. 947+18-115’ L. From approximately STA. 947+18-115’ L the waterline was installed northeasterly to a water pit at approximately STA. 953+85-170’ R. The waterline then turns south and crosses present SD Hwy 44 to STA. 953+85-191’ R. Elevations for the waterline crossing present SD Hwy 44 can be obtained from SDDOT Road Design if needed. The installed waterlines are depicted in the image below as blue dashed line and a gray dashed line for the crossing. The GFP has waterlines from STA. 941+00-330’ R to STA. 953+85-191’ R that will remain in place and do not conflict with construction plans. The new sewer lines were installed west to east starting along the north side new GFP residence driveway, then crosses Dock 44 access Road and proceeds along the north side of new GFP Shop driveway to a pit location north of new shop location. The new sewer was then installed east to the present GFP lagoon. The new sewer lines are depicted by a green line in the image below. In late 2024, installation of both new water lines and new sewer lines were coordinated with SDDOT construction plans and installed the facilities at a minimum 6’ depth of cover after proposed grade of construction, so that they would not conflict

with the construction project. Construction as-builts of new GFP facilities installations can be produced upon contractor request. Any relocation/adjustment of GFP facilities necessary to accommodate the highway construction will be facilitated through GFP.

(4) Randall Water Community District
PO Box 37
Lake Andes SD 57356-0037
CONTACT: Scott Pick, TELE. #605-487-7823 or CELL 605-487-7824
Randall Water has taken prior avoidance measures to relocate waterlines and there are no conflicts with this construction project. Randall Water's waterlines start at STA. 953+85-191' R where they head south on an avoidance route around the South Slide area to approximately STA.103+54' in present SD Hwy 44 right-of-way. Randall Water installed all water lines at a minimum 6' depth of cover. As the Company's facilities are in existing public right-of-way, any relocation/adjustment necessary to accommodate the highway construction will be at no cost to the State and performed in coordination with the highway construction.

(5) Golden West Communications
2511 North Plaza Dr.
Rapid City, SD 57702
CONTACT: Andrew Boyd, TELE. #605-428-1125 or CELL 605-864-0613
Email: AndrewBoyd@GoldenWest.com
Golden West has existing inactive 48 fiber optic cable along the north right-of-way starting at approximately STA. 849+50 to approximately STA. 871+00-80' L where it is coiled in an underground handhole that will be abandoned-in-place. The Company will remove this underground handhole at 871+00-80' L before construction occurs. Golden West has an agreement with SDDOT to install a conduit on the structure as a part of the construction project (Section E of the Project Construction Plans). The Company's facilities are in existing public right-of-way, any relocation/adjustment necessary to accommodate the highway construction will be at no cost to the State.

The requirements relating to Cooperation Between Contractors, as set forth in Section 5.7 of the Standards Specifications for Roads and Bridges, current edition, shall prevail throughout the limits of this project.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
PRICE SCHEDULE FOR MISCELLANEOUS ITEMS

FEBRUARY 18, 2026

Delete the Flagging and Pilot Car rows from the table in Section 4.4 and replace them with the following:

Specification Section Number	Specification Section Name	Item Name	Price per Item
634.5	Temporary Traffic Control	Flagging	$43.36/Hour
634.5	Temporary Traffic Control	Pilot Car	$58.77/Hour

* * * * *

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR AMERICAN SECURITY DRONE ACT

DECEMBER 15, 2025

By submitting a bid proposal for this contract, the bidder certifies and agrees the following information is correct for the bidder and all subcontractors (all tiers):

> The bidder understands and acknowledges the American Security Drone Act (ASDA), Pub. L. No. 118-31, §§ 1821-32 (41 U.S.C. § 3901 note) (2023) and the United States Office of Management and Budget memorandum M-26-02. The bidder certifies its performance of work will comply with the ASDA.

The Contractor will maintain all records and documents pertinent to the requirements for not less than five (5) years from Final Acceptance by the Department. The Contractor will furnish or make available copies of these records and documents for inspection and verification by the Department and FHWA upon request.

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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).

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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION FOR
REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS
FHWA 1273 (OCTOBER 23, 2023)

OCTOBER 18, 2023

The following are amendments to the above contract provisions.

Section I.4.

Delete this section and replace with the following:

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a Federal-aid construction project unless it is labor performed by convicts who are on parole, supervised release, or probation.

Section IV.

Delete the first three sentences of the first paragraph and replace with the following:

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway and to all portions of Transportation Alternatives Program (TAP) funded projects.

Section IV.3.b.(1)

Delete this section and replace with the following:

The Contractor and each related subcontractor must submit weekly, for each week in which any contract work is performed, an electronic certified weekly payroll report. The Contractor is responsible for the submission of certified payroll reports by all subcontractors. The payroll report must be submitted electronically to the Elation System website. The Contractor must submit a legally valid electronic signature. The Elation System website can be accessed by logging onto the State of South Dakota's single sign-on website at https://mysd.sd.gov/ or can also be accessed at https://elationsys.com/. First time users will need to use the Promotion Code SDDOT-19. The payroll report must be submitted within fourteen (14) calendar days after the end of the workweek.

Section IV.3.b.(2)

Delete the third sentence.

Section IV.3.b.(3)

Delete the first paragraph and replace with the following:

Each certified weekly payroll report must include the most recent South Dakota Department of Transportation (SDDOT) Statement of Compliance Form, signed by the Contractor or related subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract. The Instructions for the SDDOT Statement of Compliance Form are found at https://dot.sd.gov/doing-business/contractors/labor-compliance/certified-payrolls-let-after-6/5/19. The SDDOT will not accept any payroll report which does not include the most recent SDDOT Statement of Compliance Form. The SDDOT Statement of Compliance Form must certify the following:

Section IV.3.b.(4)

Delete this paragraph and replace with the following:

The weekly submission of a properly executed SDDOT Statement of Compliance Form shall satisfy the requirement for submission of the “Statement of Compliance Form” required by paragraph 3.b.(3) of this section.

Section IV.4.a.(1)

Delete the first sentence and replace with the following:

Apprentices will be permitted to work at less than the predetermined rate for the work they perform, but not less than the Common Laborer wage rate contained in the bid documents, when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA.

* * * * *

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to *DBAconformance@dol.gov*. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to *DBAconformance@dol.gov*, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH–347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 will satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION REGARDING
MINIMUM WAGE ON FEDERAL-AID PROJECTS

OCTOBER 24, 2019

This proposal contains a copy of the most recent United States Department of Labor (USDOL) Davis-Bacon Act Wage Decision.

The Contractor and each related subcontractor will pay their respective employees not less than the USDOL minimum wage for each work classification an employee actually performs at the site of the work.

The Contractor and each related subcontractor must submit weekly, for each week in which any contract work is performed, an electronic certified weekly payroll report. The payroll report must be submitted electronically to the Elation System website. The Elation System website can be accessed by logging onto the State of South Dakota's single sign-on website at https://mysd.sd.gov/ or can also be accessed at https://elationsys.com/. First time users will need to use the Promotion Code SDDOT-19. The payroll report must be submitted within fourteen (14) calendar days after the end of the workweek. The payroll reports submitted shall set out accurately and completely all the information required to be maintained under 29 C.F.R. 5.5(a)(3)(i). Weekly transmittals must include an individually identifying number for each employee, such as the last four digits of the employee's social security number, but these weekly transmittals must not include full social security numbers or home addresses. The Contractor is responsible for the submission of certified payroll reports by all subcontractors.

Each certified weekly payroll report must include the most recent South Dakota Department of Transportation (SDDOT) Statement of Compliance Form, signed by the Contractor or related subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract. The Instructions for the SDDOT Statement of Compliance Form are found at https://dot.sd.gov/doing-business/contractors/labor-compliance/certified-payrolls-let-after-6/5/19. The SDDOT will not accept any payroll report which does not include the most recent SDDOT Statement of Compliance Form.

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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 Decision
State: South Dakota
Construction Types: Heavy and Highway
Counties: South Dakota Statewide

Agency: U.S. DOL
Wage Decision Number: SD20260001 SD1
Counties: SD Statewide
Wage Decision Date: **01/30/2026** (Mod-0)

***SASD2025-001 12/12/2024**

	Rates	Fringes
LABORERS		
Group GL1		
Air Tool Operator; Common Laborer; Landscape Worker; Flagger; Pilot Car Driver; Trucks under 26,000 GVW; Materials Checker, Special Surface Finish Applicator	26.93	0.00
Group GL2		
Mechanic Tender; Pipe Layer (except culvert); Form Builder Tender	26.96	0.00
Group GL3		
Asphalt Plant Tender; Pile Driver Leadsman; Form Setter; Oiler/Greaser	28.97	0.00
Group GL5		
Carpenter; Form Builder	31.94	0.00
Group GL6		
Concrete Finisher; Grade Checker	29.81	0.00
POWER EQUIPMENT OPERATORS		
Group G01		
Tractor (farm type with attachments, including loaders but excluding Backhoe); Self Propelled Broom; Concrete Routing Machine; Paver Feeder; Pugmill; Skid Steer	30.16	0.00
Group G02		
Concrete Paving Cure Machine; Concrete Paving Joint Sealer; Bull Dozer 80 HP or less; Front End Loader 1.25 CY or less; Self Propelled Roller (except Hot Mix); Sheepsfoot/Pneumatic Roller; Pneumatic Tired Tractor or Crawler (includes Water Wagon and Power Spray units); Wagon Drill (Air Trac – Trac Drill); Truck Type Auger; Concrete Paving Saw; Concrete Grooving	31.73	0.00
Group G03		
Asphalt Distributor; Bull Dozer over 80 HP; Backhoes/ Excavators 20 tons or less; Crusher (may include internal screening plant); Front End Loader over 1.25 CY; Rough Motor Grader; Self Propelled Hot Mix Roller; Push or Pull Tractor; Off-Highway Haul Trucks; Material Spreader or Placer; Rumble Strip Machine; Pavement Marking Grinding Equipment	31.56	0.00
Group G04		
Concrete Paving Finishing Machine; Asphalt Paving Machine Screed; Asphalt Paving Machine; Cranes/Derricks/ Draglines/Pile Drivers/Shovels 30 to 50 tons; Backhoes/Excavators 21 to 40 tons; Maintenance Mechanic; Scrapers (wheel or tracks); Concrete Pump Truck	32.49	0.00
Group G05		
Asphalt Plant; Concrete Batch Plant; Backhoes/Excavators over 40 Tons; Cranes/ Derricks/Draglines/Pile Drivers/Shovels over 50 tons; Heavy Duty Mechanic; Finish Motor Grader; Automatic Fine Grader; Milling Machine; Bridge Welder	34.96	8.36
TRUCK DRIVERS		
Group GT1		
Tandem Truck without trailer or pup; Single Axle Truck over 26,000 GVW with Trailer	30.01	0.00
Group GT2		
Semi-Tractor and Trailer; Tandem Truck with Pup or Trailer	32.07	8.42

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

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

Agency: U.S. DOL
Wage Decision Number: SD20260001 SD1
Counties: SD Statewide
Wage Decision Date: 01/30/2026 (Mod-0)

***SASD2025-001 12/12/2024**

	Rates	Fringes
ELECTRICIANS		
Group E01		
Electrician	35.43	8.69
IRON WORKERS		
Group I01		
Position and secure steel bars or mesh in concrete for reinforcement, steel tiers, saw. Carrying, placing, tying, reinforcing steel under supervision, cutting. Placing steel or prefabricated reinforcement assembly for placement in concrete forms.	26.93	0.00
Group I02		
Erect, place and join steel girders, columns, structural framework, air wrenches, spud bars, grinders, drills, sledgehammers, tag lines, plumb bobs, lasers, levels, bolts, wire, welds, shears, rod-bending machines, torches.	28.97	0.00
PAINTERS		
Group P01		
Line striping machine, paint trucks, epoxy trucks, thermoplastic trucks, cold applied plastic/and preformed thermoplastic pavement marking equipment. Operate pavement marking equipment to include epoxies, paints, primers, sealers, cold applied tapes, thermoplastics used for traffic marking purposes.	26.96	0.00
Group P02		
Painting or protective coating bridges, apply varnish, anti-rust materials, prepare steel or other surfaces with primer or sandblasting, paints structural framework of bridges, guardrails and cables of bridges and other structures.	29.81	0.00

WELDERS – Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award, pursuant to 29 CFR 5.5(a)(1)(ii); contractors are responsible for requesting SDDOT to secure necessary additional work classifications and rates.

The "SA" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R. 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the "SA" identifier took effect under state law in the state from which the rates were adopted.

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

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

WAGE DETERMINATION APPEALS PROCESS

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

   a) a survey underlying a wage determination
   b) an existing published wage determination
   c) an initial WHD letter setting forth a position on a wage determination matter
   d) an initial conformance (additional classification and rate) determination

   On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

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

   Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

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

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

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

   The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

   Administrative Review Board
   U.S. Department of Labor
   200 Constitution Avenue, N.W.
   Washington, DC 20210.

END OF GENERAL DECISION

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
REGARDING
STORMWATER DISCHARGES
TO WATERS OF THE STATE

NOVEMBER 5, 2025

In compliance with the provisions of the South Dakota Water Pollution Control Act and the Administrative Rules of South Dakota (ARSD), Article 74:52, the State of South Dakota has been issued Permit No. SDR10#### “GENERAL PERMIT AUTHORIZING STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES”. This permit authorizes the discharge of storm water in accordance with the conditions and requirements set forth in the permit.

The Contractor, by signing the CONTRACTOR AUTHORIZATION FORM and submitting a bid or proposal, certifies the following:

> “I certify under penalty of law that I understand and will comply with the terms and conditions of the Surface Water Discharge General Permit for Stormwater Discharges Associated with Construction Activities for the project identified above.”

A copy of the full version of the General Permit Authorizing Stormwater Discharges Associated with Construction Activities, dated 11/01/2023, must be available on the job site. The permit is available for downloading and printing from the SD DANR website:

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

The Contractor may also obtain a printed copy of the permit from the SDDOT Project Development office or from the SDDOT Area Office assigned to this project.

* * * * *