

Department of Transportation

Mitchell Region Office

PO Box 1206
Mitchell, SD 57301-7206 605/995-8129
FAX: 605/995-8135

July 24, 2006

Mrs. June Hansen
Civil Rights Officer
Department of Transportation
700 Broadway Avenue East
Pierre, South Dakota 57501

RE: P 0018(00)447, Lincoln County – PCN 00TV
Bank Stabilization along Beaver Creek beneath Str. No. 42-162-140 in Canton

Dear Mrs. Hansen:

Enclosed is a Contract Proposal and plans for the above referenced project that is being let to contract by the informal bidding procedure in the Mitchell Region on August 11, 2006.

We have sent a proposal to the DBE/WBE Contractors listed below:

Buskerud Construction Inc.

Grangaard Construction Inc.

Prairie Contracting Inc.

If you know of any other interested Contractors, please advise us.

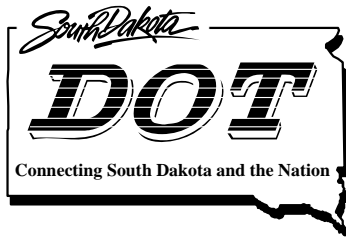
Very truly yours,

DEPARTMENT OF TRANSPORTATION

Thomas L. Week
Region Engineer

Monte D. Rice
Region Design Engineer

cc: Forman - Operations
Bjorneberg – Project Development
Smith/Carlson/Aalberg/Vandam - Sioux Falls Area



Department of Transportation

Mitchell Region Office

PO Box 1206
Mitchell, SD 57301-7206 605/995-8129
FAX: 605/995-8135

July 24, 2006

TO: Interested Bidders

RE: P 0018(00)447, Lincoln County – PCN 00TV
Bank Stabilization along Beaver Creek beneath Str. No. 42-162-140 in Canton

The South Dakota Department of Transportation (SDDOT) desires to solicit bids for Bank Stabilization along Beaver Creek beneath Str. No. 42-162-140 in Canton. Refer to the enclosed plans for location and details of the work to be done.

A Contract Proposal (DOT 123) form, a Participation by Minority Contractors form and a Contractor's Affidavit/Declaration form are enclosed for submission of your bid. Be sure to have the forms signed and notarized as indicated on the forms. FAX bids will not be accepted.

Pursuant to South Dakota Administrative Rules 70:07:02, Classification and Bidding Capacity Rating for Highway Contracts, and Section 2.1 of the SDDOT Standard Specifications For Roads and Bridges, all bidders on highway construction projects over \$99,999.99 shall be prequalified.

Contractors may apply for prequalification by fully completing and executing a Prequalification Statement on forms furnished by the Department. Prequalification Statement forms must be obtained from the Division of Fiscal and Public Assistance (Call Cindy Jungman at 605-773-4555 to obtain prequalification application). Completed Prequalification Statement application must be sent to the Classification and Rating Committee at the Becker-Hansen Building, 700 East Broadway, Pierre, SD 57501 at least fourteen (14) days prior to the day of the letting.

Bidders on projects let through the informal process (being let using a DOT 123 contract form) are excluded from having to submit a request for Plans and Bid Proposal form as required in Standard Specification Section 2.3, showing the bidders status at the time as to their ability to handle the work for which they are submitting a bid. All other portions of Section 2.3 are to remain in effect.

In lieu of being prequalified, Bidders may complete a SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION EXPERIENCE QUESTIONNAIRE. The questionnaire can be obtained from any of the Region offices of the SDDOT. The questionnaire shall be submitted prior to or at the time of bidding to the office conducting the letting.

Region personnel will determine from the questionnaire if the low responsive bidder is capable of performing the work intended. If it is determined that the low bidder does not have the capacity (experience or equipment) to complete this work, they will be determined to be nonresponsive, and the bid awarded to the next responsive bidder.

If you submit a bid for these projects, a bid bond, certified check, cashier's check, or bank draft will be required for NOT LESS THAN FIVE (5) PERCENT OF THE TOTAL AMOUNT OF THE BID. Except for the lowest bidder on the project, all guarantees will be returned immediately following the receipt and checking of all bids.

At the time of execution of the contract, the successful bidder shall furnish a performance bond in a sum equal to the full amount of the contract. The performance bond must be written by South Dakota Resident Agents or be counter signed by South Dakota Resident Agents. If a cash performance bond is provided, it will not be returned for one (1) year after the completion of the project.

A Certificate of Insurance will be required from the successful bidder prior to beginning work.

All bid proposals must be returned in the enclosed self-addressed envelope to Thomas L. Week, Region Engineer, Post Office Box 1206, Mitchell, South Dakota 57301-7206 before 1:30 P.M. on Friday, August 11, 2006.

Questions regarding the plans and/or proposal should be directed to:
Craig Smith or Larry Carlson at 605-367-5680 or Monte Rice at 605-995-8129.

The SDDOT reserves the right to reject any or all bids.

Please verify that all required information is complete prior to mailing bid documents.

Very truly yours,

DEPARTMENT OF TRANSPORTATION

Thomas L. Week

Region Engineer

Monte D. Rice

Region Design Engineer

cc: Forman - Operations
Hansen - Civil Rights
Reiss – Planning & Programs
Smith/Carlson/Aalberg/Vandam - Sioux Falls Area
Dahme – Materials
Larson – Bridge Maintenance
Bjorneberg - Project Development

**BIDDER MUST EXECUTE THE FOLLOWING:
PARTICIPATION BY MINORITY CONTRACTORS**

Utilization of Minority Business Enterprises Clauses

PROJECT: P 0018(00)447

PCN 00TV

COUNTY: LINCOLN

1. The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of his contract. As used in this contract, 'Minority Business Enterprise' or 'MBE' means a small business concern, as defined pursuant to section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one or more minorities or women. 'Owned and controlled' means a business: (a) Which is at least 51 per centum owned by one or more minorities or women or, in the case of publicly owned business, at least 51 per centum of the stock of which is owned by one or more minorities or women; and (b) Whose management and daily business operations are controlled by one or more such individuals. 'Minority' means a person who is a citizen or lawful permanent resident of the United States and who is: (a) Black (a person having origins in any of the black racial groups of Africa); (b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race); (c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or (d) American Indian and Alaskan Native (a person having origins in any of the original peoples of North America); (e) Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act, as amended. Contractors may rely on written representatives by subcontractors regarding their status as minority business enterprise in lieu of an independent investigation.
2. The Contractor agrees to establish and conduct a program which will enable minority business enterprise to be considered fairly as subcontractors and suppliers under this contract. In this connection the Contractor shall
 - (a) Designate a liaison officer who will administer the Contractor's minority business enterprises program.
 - (b) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions.
 - (c) Ensure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications and delivery schedules so as to facilitate the participation of minority business enterprises.
 - (d) Maintain records showing (1) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (2) awards to minority business enterprises on the source list, and (3) specific efforts to identify and award contracts to minority business enterprises.
 - (e) Include the "Utilization of Minority Business Enterprises Clause" in subcontracts which offer substantial minority business enterprises subcontracting opportunities.
 - (f) Cooperate with the State's Contracting Officer in any studies and surveys of the Contractor's minority business enterprises procedures and practices that the State's Contracting Officer may from time to time conduct.
 - (g) Submit periodic reports of subcontracting to known minority business enterprises with respect to the records referred to in subparagraph (d) above, in such form and manner and at such time (not more often than quarterly) as the State's Contracting Officer may prescribe.
3. The Contractor further agrees to insert in any subcontract hereunder provisions which shall conform substantially to the language of this clause, including this paragraph 3 and to notify the State's Contracting Officer of the names of such subcontractors.
4. The bidder hereby certifies that should he at any time decide to subcontract a portion of the work, he will take affirmative action to seek out and consider minority business enterprises as potential subcontractors. He further certifies that he will maintain records showing the contacts made with potential minority business enterprises subcontractors and the results of such contacts.

Name of Company (print or type)

Date

By _____
Signature of Company Official

Title

BIDDER MUST EXECUTE THE FOLLOWING:

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

CONTRACTOR'S AFFIDAVIT / DECLARATION

PROJECT: P 0018(00)447

PCN 00TV

COUNTY: LINCOLN

(an individual)

(a partnership)

(a corporation)

do hereby certify that I, We or any owner or partner holding a controlling interest, director or officer of the bidder; principal investigator, project director or other position involved in management of the project for which this bid is submitted, have not directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for the project, and that within the last 3 years none of the above have been suspended, debarred, voluntarily excluded or determined ineligible by any federal or state agency, been indicted, convicted, or had a civil judgment rendered against any of the above or the business entity described herein by a court of competent jurisdiction in any matter involving fraud or official misconduct for which we are currently under suspension or debarment. Nor is a proposed suspension or debarment pending against any of the above for any of the above listed reasons.

* * * * *

COMPLETE SIGNATURE BLOCK A. or B. BELOW:

A.

Signed _____ (an individual)
(a partnership)
(a corporation)

By _____

Title _____

County of _____

);SS

State of _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

(SEAL) _____
Notary Public My Commission Expires _____.

* * * * *

B. Under the penalty of perjury under the laws of the United States, I hereby certify that the above statement is true and correct.

Signed _____ (an individual)
(a partnership)
(a corporation)

By _____

Title _____

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION CONTRACT PROPOSAL

DOT-123
(4/05)
1 of 2

CODE	PROJECT			MAINT UNIT	CONTROL REFERENCE	AFE	FUNCTION	BEGIN MRM	END MRM
	PRE	ROUTE	AGR						
	P	0018			447	00TV			

CITY AND/OR COUNTY: City of Canton / Lincoln County

BUDGET SOURCE: Construction Program

FINALS ENGINEER REVIEW REQUIRED: ☒ YES ☐ NO
 REGION MATERIALS CERTIFICATION REQUIRED: ☒ YES ☐ NO
 CERTIFIED INSPECTORS/TESTERS REQUIRED: ☒ YES ☐ NO
 TO BE INSTALLED ON CM&P: ☒ YES ☐ NO

TYPE, PURPOSE AND LOCATION OF WORK: Bank Stabilization along Beaver Creek beneath Str. No. 42-162-140 in Canton.

ESTIMATE OF QUANTITIES AND COST

BID ITEM NUMBER	ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT
009E0010	Mobilization	Lump Sum	LS	Lump Sum	
100E0100	Clearing	Lump Sum	LS	Lump Sum	
110E1140	Remove Concrete Sidewalk	9.7	SqYd		
110E1690	Remove Sediment	5	CuYd		
110E1693	Remove Erosion Control Wattle	82	Ft		
120E0010	Unclassified Excavation	278	CuYd		
250E0020	Incidental Work, Grading	Lump Sum	LS	Lump Sum	
634E0010	Flagging	10	Hour	\$20.52	
634E0100	Traffic Control	170	Unit		
634E0120	Traffic Control Miscellaneous	Lump Sum	LS	Lump Sum	
634E0420	Type C Advance Warning Arrow Panel	1	Each		
651E0040	4" Concrete Sidewalk	87	SqFt		
700E0210	Class B Riprap	405	Ton		
733E0100	Sodding	270	SqYd		
734E0151	9" Diameter Erosion Control Wattle	82	Ft		
734E0630	Floating Silt Curtain	225	Ft		
734E0845	Sediment Control at Inlet "with frame and grate"	1	Each		
831E0110	Type B Drainage Fabric	496.8	SqYd		
TOTAL					

CONTRACTOR'S PROPOSAL STATEMENT

The undersigned does hereby agree to furnish the labor and/or material in the quantities, at the unit price, for the purpose, in the place and in accordance with attached provisions upon approval of this Proposal by the State Transportation Commission. This document becomes the Contract when signed by the Contractor and a Department of Transportation Representative. The Contractor agrees to provide services in compliance with the Americans with Disabilities Act of 1990. The Contractor agrees to provide a certificate of insurance prior to commencing work, for liability coverage for the duration of the work as per the current edition of the SDDOT Standard Specifications for Roads and Bridges.

PROPOSED START DATE _____ COMPLETION DATE _____

SUBSCRIBED AND SWORN TO BEFORE ME THE _____ SIGNATURE _____
 _____ DAY OF _____, 20____ COMPANY _____
 _____ ADDRESS _____

NOTARY - My Commission Expires _____ FEDERAL TAX ID NUMBER _____

RECOMMENDED FOR APPROVAL: _____
 _____ CONSTRUCTION/MAINTENANCE ENGINEER _____ DATE _____

_____ REGION ENGINEER _____ DATE _____
 _____ DIRECTOR OF OPERATIONS _____ DATE _____

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT PROPOSAL

DOT-123
(4/05)
2 of 2

CODE	PROJECT			MAINT UNIT	CONTROL REFERENCE	AFE	FUNCTION	BEGIN MRM	END MRM
	PRE	ROUTE	AGR						
	P	0018			447	00TV			

APPROVED FOR THE TRANSPORTATION COMMISSION

NAME _____ TITLE _____ DATE _____

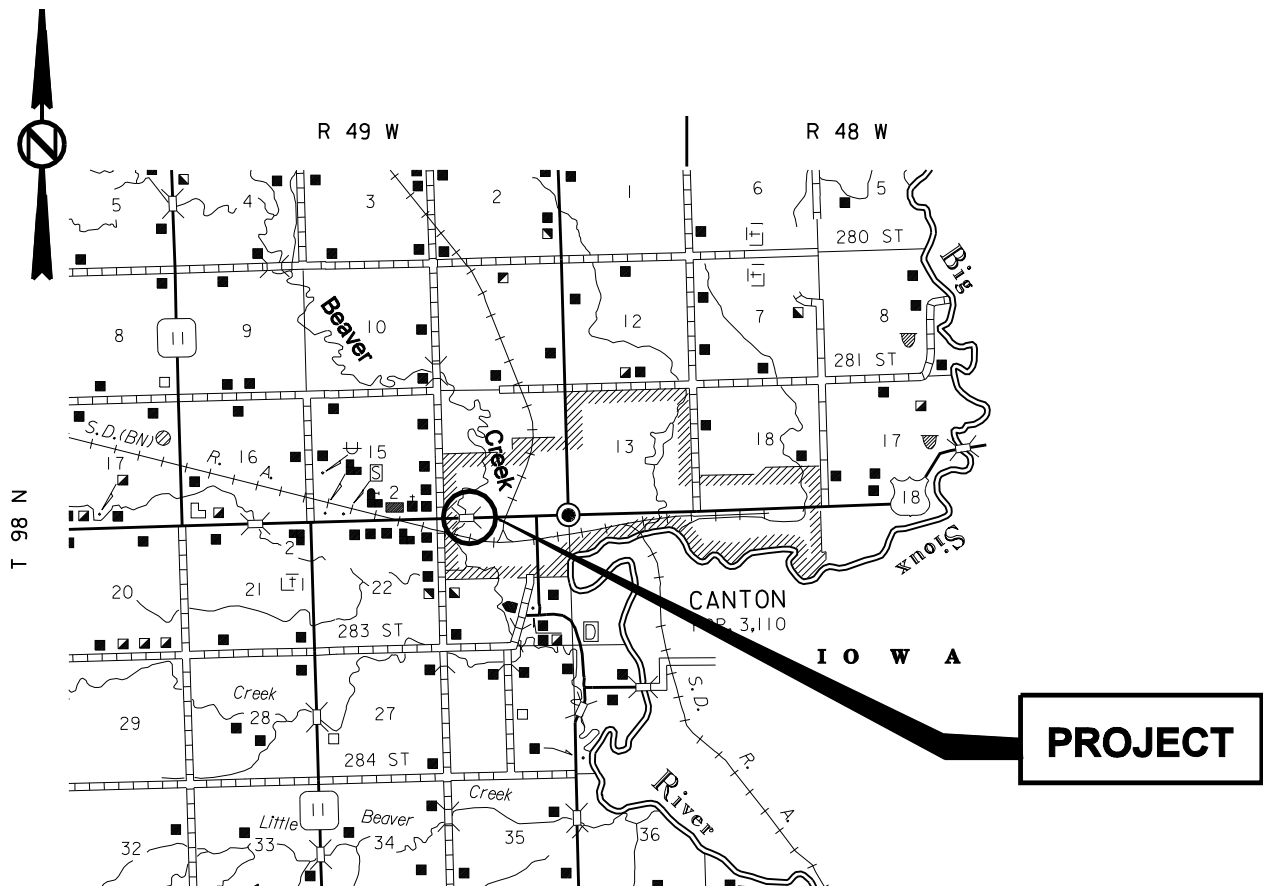
APPROVED as per Federal Highway Stewardship Provisions this _____ day of _____, 20__.

PROJECT DEVELOPMENT ENGINEER

**SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
MITCHELL REGION**

PLANS AND PROPOSAL FOR

**P 0018(00)447
LINCOLN COUNTY
BANK STABILIZATION
PCN 00TV**



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.

* * * *

REV. 7/2006

PROJECT: P 0018(00)447 PCN 00TV

TYPE OF WORK: BANK STABILIZATION

COUNTY: LINCOLN

THE FOLLOWING ITEMS ARE INCLUDED IN THIS PROPOSAL FORM:

Excerpts from Administrative Rules Regarding Differing Site Conditions, Provided for Informational Purposes, dated June 10, 1997.

[Fact Sheet Nationwide Permit 3.](#)

Special Provision for Temporary Works, dated 10/6/05.

Special Provision for Burner Fuel for Asphalt Concrete Pavement, dated 5/9/06.

Special Provision for Fuel Cost Adjustment, dated 7/13/06.

Special Provision for Suspension of Work, dated 2/13/04.

Standard Title VI Assurance, dated 1/15/04.

Special Provision For Implementation of Clean Air Act & Federal Water Pollution Control Act, dated 9/1/97.

Special Provision Regarding Minimum Wage on State Funded Projects, dated 10/1/99.

South Dakota Department of Transportation Highway-Heavy Minimum Construction Wage Rates, State Funded Contracts \$100,000.00 or more, as awarded, Let after 9/30/05.

Supplemental Specification for Errata, dated 10/19/05.

Supplemental Specification to Standard Specifications for Roads and Bridges, dated 10/19/05.

Special Provision Regarding Price Schedule for Miscellaneous Items, dated 10/19/05.

Plans – Sheets 1 through 19

* * * *

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**EXCERPTS FROM ADMINISTRATIVE RULES REGARDING
DIFFERING SITE CONDITIONS PROVIDED FOR INFORMATIONAL PURPOSES**

June 10, 1997

70:01:05.01:01. Definitions. Words used in this chapter have the following meaning.

(6) "Differing site condition," a subsurface or latent physical condition encountered on the project which differs materially from that indicated in the contract or an unknown physical condition of an unusual nature which differs materially from that ordinarily encountered and generally recognized as inherent in the work provided for in the contract.

70:01:05.01:02. Examination of plans, specifications, special provisions, and site of work. The bidder shall examine the project site, proposal, plans, specifications, supplemental specifications, special provisions, and contract form for the work contemplated. The submission of a proposal is considered conclusive evidence that the bidder has investigated the conditions to be encountered, the character, quality, and quantities of work to be performed, and the materials to be furnished, according to all contract documents.

The Department is not contractually bound by any statement or representation concerning conditions made by any of its employees or agents prior to the execution of the contract, unless they are included in the proposal form, plans, specifications, supplemental specifications, special provisions, or related contract documents.

Boring logs and other records of subsurface investigations are available for inspection by bidders. Such information was obtained for and is intended for state design and estimating purposes. The Department does not guarantee the accuracy of the information. It is made available in order that all bidders may have access to identical subsurface information available to the Department. It is not intended as a substitute for personal investigation, interpretations or judgment of the bidders.

A bidder shall request any explanation he desires regarding the meaning or interpretation of the proposal form, plans, and specifications in sufficient time to allow a reply to reach all bidders before submission of their bid proposal. The Department shall make an interpretation in the form of an addendum to the proposal form and shall furnish it to all prospective bidders by certified letter, or return receipt by FAX, before the time set for opening of proposals. Oral explanations or instructions given before the award of the contract are not binding on the Department.

70:01:05.01:02.01. Differing site conditions. If a differing site condition is encountered at the project by the Department during the progress of the work, the engineer shall immediately notify the contractor in writing of the specific differing condition before it is disturbed and before affected work is performed. If a differing site condition is encountered at the project by the contractor, the contractor shall immediately notify the engineer in writing of the specific differing condition before it is disturbed and before affected work is performed.

After discovering a differing site condition and notifying the contractor or after being notified by the contractor of a differing site condition, the engineer shall investigate the condition. If the engineer determines that the condition materially differs and causes an increase or decrease in the cost or time required for the performance of any work under the contract, the engineer shall make an adjustment, excluding loss of anticipated profits, and modify the contract in writing accordingly. The engineer shall notify the contractor of his determination whether or not an adjustment of the contract is warranted.

A contract adjustment which results in a benefit to the contractor may not be allowed unless the contractor has provided the required written notice.

A contract adjustment may not be allowed under this section for any effects caused on unchanged work.

This section does not apply to material sources shown on the plans and as defined in Section 6 of the Standard Specifications for Roads and Bridges, most recent edition.

* * * *

FACT SHEET NATIONWIDE PERMIT 3

MAINTENANCE: Activities related to:

(i) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation, or replacement, are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire, or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the District Engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(ii) Discharges of dredged or fill material, including excavation, into all waters of the United States to remove accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure, provided the permittee notifies the District Engineer. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. All excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the District Engineer under separate authorization. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the District Engineer.

(iii) Discharges of dredged or fill material, including excavation, into all waters of the United States for activities associated with the restoration of upland areas damaged by a storm, flood, or other discrete event, including the construction, placement, or installation of upland protection structures and minor dredging to remove obstructions in waters of the United States. (Uplands lost as a result of a storm, flood, or other discrete event can be replaced without a Section 404 permit provided the uplands are restored to their original pre-event location. This NWP is for the activities in waters of the United States associated with the replacement of the uplands.) The permittee must notify the District Engineer within 12 months of the date of the damage and the work must commence, within two years of the date of the damage. The permittee should provide evidence, such as recent topographic survey or photographs, to justify the extent of the proposed restoration. The restoration of the damaged areas cannot exceed the contours, or ordinary high water mark, that existed prior to the damage. The District Engineer retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this permit. Minor dredging to remove obstructions from the adjacent waterbody is limited to 50 cubic yards below the plane of the ordinary high water mark, and is limited to the amount necessary to restore the preexisting bottom contours of the waterbody. The dredging may not be done primarily to obtain fill for any restoration activities. The discharge of dredged or fill material and all related work needed to restore the upland must be part of a single and complete project. This permit cannot be used in conjunction with NWP 18 or NWP 19 to restore damaged upland areas. This permit does not authorize the replacement of lands lost through gradual erosion processes.

Maintenance dredging for the primary purpose of navigation and beach restoration are not authorized by this NWP. This NWP does not authorize new stream channelization or stream relocation

projects. Any work authorized by this NWP must not cause more than minimal degradation of water quality, more than minimal changes to the flow characteristics of the stream, or increase flooding (See General Conditions 9 and 21). (Sections 10 and 404)

Note: This NWP authorizes the minimal impact repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Section 404(f) exemption for maintenance.

General Conditions: The following general conditions must be followed in order for any authorization by a NWP to be valid:

- 1. Navigation:** No activity may cause more than a minimal adverse effect on navigation.
- 2. Proper Maintenance:** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
- 3. 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.
- 4. 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. Culverts placed in streams must be installed to maintain low flow conditions.
- 5. Equipment:** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 6. Regional and Case-By-Case Conditions:** The activity must comply with any regional conditions which 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 or tribe in its Section 401 water quality certification.
- 7. Wild and Scenic Rivers:** No 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. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
- 8. 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.
- 9. Water Quality:** In certain States and tribal lands an individual 401 water quality certification must be obtained or waived (see 33 CFR 330.4(c)).
- 10. Coast Zone Management:** *Not applicable.*

11. Endangered Species: (a) No activity is authorized which is likely to 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, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), the District Engineer may add species-specific regional endangered species conditions to the NWP.

(b) Authorization of any activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. 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, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. 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 world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and http://www.nmfs.noaa.gov/prot_res/overview/es.html respectively.

12. Historic Properties: No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification: *See attached sheets.*

14. Compliance Certification: Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter. The certification will be forwarded by the Corps with the authorization letter and will include: (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits: The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization

authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3 acre).

16. Water Supply Intakes: No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds: No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material: No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

19. Mitigation: The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

(a) The project must be designed and constructed to avoid and minimize adverse effects 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) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring notification, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

(d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, 1/4-acre of wetlands cannot be created to change a 3/4-acre loss of wetlands to a 1/2-acre loss associated with NWP 39 verification. However, 1/2-acre of created wetlands can be used to reduce the impacts of a 1/2-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

(e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purpose. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineer may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the

appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

(g) Compensatory mitigation proposals submitted with the notification may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the United States.

(h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows: To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelization will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect water flows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments: If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restriction of its flow, shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the United States, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills: Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resources Waters: Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, State natural heritage sites, and

outstanding national resource waters or other waters officially designated by a State as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) **Not applicable to NWP 3.**

(b) For NWP 3, notification is required for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under this NWP only after it is determined that the impacts to the critical resource waters will be no more than minimal.

26. Fills Within 100-Year Floodplains: The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period: For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12 months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date may be requested. This request must be submitted at least one month before the previously approved completion date.

Regional Conditions, South Dakota

1. Fens: (a) All nationwide permits, with the exception of 3, 5, 20, 27, and 32, are revoked for use in fens in South Dakota. For nationwide permits 3, 5, 20, 27, and 32, permittees must notify the Corps in accordance with General Condition No. 13 (Notification) prior to initiating any regulated activity impacting fens in South Dakota.

(b) Wetlands commonly known as fens are defined as wetlands that are characterized by waterlogged spongy ground and contain (in all or in part) soils classified as histosols or mineral soils with a histic epipedon. To determine whether this provision applies, the entire wetland must be examined for the presence of histosols or histic epipedons.

2. Springs: For all nationwide permits *except* NWP 40 (a), permittees must notify the Corps in accordance with General Condition No. 13 (Notification) for regulated activities located within 100 feet of the water source in natural spring areas in South Dakota. For purposes of this condition, a spring source is defined as any location where there is artesian 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.

3. Spawning Areas: In order to further minimize adverse impacts in certain waters of the United States and to comply with General Condition No. 20, projects authorized under all available Section 404 Nationwide Permits that would occur in South Dakota's cold water streams must comply with the following regional condition:

In all South Dakota streams classified as cold water streams, when water flow is present, the discharge of dredged or fill material shall not take place between October 15 and April 1. The

Corps of Engineers, the South Dakota Department of Game, Fish and Parks, or the South Dakota Department of Environment and Natural Resources can be contacted for the location of State classified cold water streams.

Section 10 Only Condition

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 authorized representative, and 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.

Further Information:

1. District Engineers have authority to determine if any activity complies with the terms and conditions of a 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.

General Condition 13. Notification:

(a) Timing: Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can 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 notification 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:

(1) Until 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) If notified in writing by the District or Division Engineer that an individual permit is required; or

(3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information:

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

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; 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. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (sketches usually clarify the project and when provided result in a quicker decision);

(4) thru (16) **Not applicable to NWP 3.**

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work.

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) Form of Notification: The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b)(1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

(d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer

must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the United States will occur until the District Engineer has approved a specific mitigation plan.

(e) Agency Coordination: 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 project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2 acre of waters of the United States, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, State natural resource or water quality agency, EPA, and State Historic Preservation Officer (SHPO), and if appropriate, the NMFS). These agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) Wetlands Delineations: Wetlands 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 site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR**

TEMPORARY WORKS

OCTOBER 6, 2005

Delete Section 423.1 and replace with the following:

423.1 DESCRIPTION

This work consists of the design, construction, and subsequent removal of all temporary works including, but not limited to; falsework, formwork, cofferdams, work berms and platforms, temporary traffic and stream diversions, and temporary retaining structures.

Add the following to the end of Section 423.3.A:

All temporary works in streams or wetlands are required to be covered in the Corp of Engineers 404 Permit. At the time of the preconstruction meeting, the Contractor shall submit documentation for all temporary works for the purpose of complying with the 404 Permit requirements. The documentation shall include at a minimum:

1. A written description of the proposed temporary works including types of materials to be used, how the temporary works will be installed, removed, and what portion, if any, will remain in place after construction.
2. Details showing approximate size and location of the temporary works. Details shall include at a minimum, a Plan View and a Cross-Section View of the temporary works. Details shall provide sufficient dimensions such that the approximate size of the temporary works and location of the temporary works from a known point is shown.
3. Estimated quantities of all temporary fill material below the ordinary high water elevation. If the temporary fill is to be placed in a wetland, the estimated quantity shall be the amount of wetland loss, (in acres).

If during the course of construction there is a need for additional temporary works, the documentation shall be submitted to the Engineer at that time.

The Engineer will submit the documentation to the Corp of Engineers for approval. No construction of temporary works below the ordinary high water mark or in wetlands may begin until Corp of Engineer approval is attained by the Engineer.

Delete Section 423.5 and replace with the following:

423.5 BASIS OF PAYMENT

A. Temporary Works: No payment will be made for temporary works. All costs involved in designing, constructing, and removing temporary works shall be incidental to the other bid items.

* * * * *

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
BURNER FUEL
FOR ASPHALT CONCRETE PAVEMENT**

MAY 9, 2006

Delete the first sentence from the fourth paragraph of Section 320.3 B.1 from the Standard Specifications in its entirety and replace it with the following:

Burner fuel used for production of asphalt concrete shall be propane, butane, natural gas, Grade 1 fuel oil, Grade 2 fuel oil, Grade 4 fuel oil, Grade 4 (light) fuel oil, Grade 5 (light or heavy) fuel oil, or Grade 6 fuel oil.

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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
FOR
FUEL COST ADJUSTMENT
JULY 13, 2006

Delete Section 9.12 of the Standard Specifications for Roads and Bridges and replace with the following:

General

Compensation adjustments for motor fuels and burner fuels consumed in prosecuting the contract shall be determined by the Engineer in accordance with the provisions set forth herein.

Compensation adjustments will be assessed for the cost of the motor fuels and burner fuels whenever the Current Fuel Index (CFI) is outside the range of 85 percent to 115 percent of the Base Fuel Index (BFI). Compensation adjustments for burner fuel will only be made when asphalt concrete bid items are paid for on the estimate.

The Contractor is not required to notify the Department at the time of submitting bids whether he will or will not participate in the fuel cost adjustment program. Prior to execution of the contract, the successful bidder shall submit the Fuel Adjustment Affidavit - Form DOT-208 to the Department.

Determination of whether to participate in the Fuel Adjustment program is the decision of the Prime Contractor. If the Prime Contractor decides not to participate, or if he has a fixed fuel cost for any of the fuel types, no compensation adjustments will be made for the subcontractors by the Department. The Fuel Adjustment Affidavit shall include the anticipated fuel cost of subcontractors, if the Prime Contractor chooses to participate in the fuel cost adjustment program. If compensation adjustments are made, the prime contractor shall ensure that all subcontractors including second and lower tier, are included in the adjustments in proportion to the percentage of work and anticipated fuel cost by that subcontractor.

Each week the Department will record the average wholesale price for No. 2 fuel oil (diesel), regular unleaded gasoline, and propane (LPG), Freight On Board (FOB) South Dakota terminals, as listed in the "Oil Price Information Service" (OPIS) publication.

The BFI price for motor fuels and burner fuel to be used in the contract will be the average of the recorded wholesale fuel prices for the four most recent weekly reporting periods prior to the week of the bid letting.

The CFI price for motor fuels and burner fuel to be used for each progress payment will be the average for the recorded wholesale fuel prices for the four most recent weekly reporting periods available at the time when the progress payment is prepared.

Burner fuel adjustment will use the BFI and CFI as determined for No. 2 fuel oil (diesel), except when the contractor lists the burner fuel as propane (LPG) on Form DOT-208, Fuel Adjustment Affidavit. In that case, the BFI and CFI will be as determined for propane (LPG).

Compensation adjustments will not be assessed for fuel items which the contractor has obtained a fixed fuel cost, or if the contractor elects not to participate in fuel adjustments on Form DOT-208, Fuel Adjustment Affidavit. Fixed fuel costs are defined as a fuel cost that has been set and will remain the same for the entire length of the contract.

Compensation adjustments made in accordance with these provisions may be made on progress payments without a prior approved Construction Change Order.

Fuel Cost Percentage Change

The biweekly change in fuel cost percentage will be determined by Equation 1 as follows:

Equation 1

$$Change_{(x, y, z)} = \left(\frac{CFI_{(x, y, z)} - BFI_{(x, y, z)}}{BFI_{(x, y, z)}} \right)$$

(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel

Change _(x, y, z)	=	Percent change in the respective fuel price compared to the Base Fuel Index Price set for the contract.
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CFI _(x, y, z)	=	Current Fuel Index Price for the respective fuel type (\$\$).
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BFI _(x, y, z)	=	Base Fuel Index Price for the respective fuel type (\$\$).
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Contract Fuel Percentage

For the purpose of determining fuel cost adjustment, a percent of contract will be determined for Motor Fuel (Diesel), and Motor Fuel (Unleaded) based on the original contract prices. Burner Fuel will be adjusted based on the original contract prices of the plant mix asphalt concrete pavement bid items.

The percent of the contract will remain the same throughout the length of the contract. No changes to this percentage will be allowed for any reason. The sum of the individual fuel costs shall not exceed 15% of the Original Contract Cost. The percent of the contract will be determined by Equation 2 as follows:

Equation 2

$$\% \text{ Contract}_{(x, y, z)} = \left(\frac{\text{Affidavit Cost}_{(x, y, z)}}{\text{Original Contract Cost}_{(x, y, z)}} \right) \times 100$$

(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
% Contract _(x,y,z)	=	Percent of contract for each respective fuel item.
Affidavit Cost _(x,y,z)	=	Cost from Fuel Adjustment Affidavit (Form DOT-208)
Original Contract Cost _(x,y)	=	Total of the original contract bid cost excluding lane rental, and Part B of the bid (when A+B bidding is used), if applicable (\$\$).
Original Contract Cost _(z)	=	Total original contract cost for all plant mix asphalt concrete pavement bid items combined, excluding bid items for asphalt binder, hydrated lime, sawing and sealing joints, compaction samples, etc. Only bid items measured by the Ton will be included in the calculation.

Compensation Adjustment

The compensation adjustments will be determined for Motor Fuel (diesel), Motor Fuel (Unleaded), and Burner Fuel separately. The calculation will be based on the current Engineer's pay estimate, the percent of the contract for each of the respective fuel items, and the portion of the Current Fuel Index price that falls outside the 85 to 115 percent range of the Base Fuel Index price.

When the “Change_(x, y, z)” from Equation 1 is greater than 15%, Equation 3 will be used to determine the compensation adjustment for each item as follows:

Equation 3

$$FCA_{(x, y, z)} = \frac{\% \text{ Contract}_{(x, y, z)}}{100} \times \text{Estimate Cost}_{(x, y, z)} \times (\text{Change}_{(x, y, z)} - 0.15)$$

(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
FCA _(x,y,z)	=	Fuel Cost Adjustment for the respective fuel item for the current Engineer’s estimate (\$\$).
% Contract _(x,y,z)	=	Percent of contract for each respective fuel item (from Equation 2).
Estimate Cost _(x,y)	=	Amount to be paid on the biweekly pay estimate excluding all pay adjustments made for incentive, disincentive, price adjustments, pay factor adjustments, liquidated damages, and royalties.
Estimate Cost _(z)	=	Amount to be paid on the biweekly pay estimate for all plant mix asphalt concrete pavement bid items combined, excluding bid items for asphalt binder, hydrated lime, sawing and sealing joints, compaction samples, all pay adjustments made for incentive, disincentive, price adjustments, pay factor adjustments, liquidated damages, and royalties. Only asphalt concrete bid items measured by the Ton will be included in the calculation.
Change _(x,y,z)	=	Change in the respective fuel price compared to the Base Fuel Index price (from Equation1).

When the “Change_(x,y,z)” from Equation 1 is less than -15%, the Equation 4 will be used to determine the compensation adjustment for each item.

Equation 4

$$FCA_{(x, y, z)} = \frac{\% \text{ Contract}_{(x, y, z)}}{100} \times \text{Estimate Cost}_{(x, y, z)} \times (\text{Change}_{(x, y, z)} + 0.15)$$

(x)	=	Motor Fuel (Diesel)
(y)	=	Motor Fuel (Unleaded)
(z)	=	Burner Fuel
$FCA_{(x,y,z)}$	=	Fuel Cost Adjustment for the respective fuel item for the current Engineer's estimate (\$\$).
% Contract _(x,y,z)	=	Percent of contract for each respective fuel item (from Equation 2).
Estimate Cost _(x,y)	=	Amount to be paid on the biweekly pay estimate excluding all pay adjustments made for incentive, disincentive, price adjustments, pay factor adjustments, liquidated damages, and royalties.
Estimate Cost _(z)	=	Amount to be paid on the biweekly pay estimate for all plant mix asphalt concrete pavement bid items combined, excluding bid items for asphalt binder, hydrated lime, sawing and sealing joints, compaction samples, all pay adjustments made for incentive, disincentive, price adjustments, pay factor adjustments, liquidated damages and royalties. Only asphalt concrete bid items measured by the Ton will be included in the calculation.
Change _(x,y,z)	=	Change in the respective fuel price compared to the Base Fuel Index price (from Equation1).

Payment

Adjustments will be determined by the Engineer on biweekly progress payments based on when the completed work is paid for, not when the work is completed. Adjustments will be made by utilizing the following lump sum line items: Motor Fuel Cost Adjustment, Diesel; Motor Fuel Cost Adjustment, Unleaded; Burner Fuel Cost Adjustment, Propane; and Burner Fuel Cost Adjustment, Diesel.

* * * * *

For informational purposes, Form DOT-208 follows in Attachment A.

Attachment A

DOT-208
(07/13)

FUEL ADJUSTMENT AFFIDAVIT

Project Number _____
PCN _____
County _____

The Contractor is not required to notify the Department at the time of submitting bids whether he will or will not participate in the fuel cost adjustment program. The Fuel Adjustment Affidavit shall 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, then check the box for each fuel type that has a fixed price. No adjustments in fuel price will be made for the boxes that are checked.

☐ Diesel

☐ Unleaded

☐ Burner Fuel

If yes, provide the total dollars for each of the applicable fuels.

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 may not exceed 15% of the original contract amount.

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 shall 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**

**SPECIAL PROVISION
FOR
SUSPENSION OF WORK**

FEBRUARY 13, 2004

The following shall apply when suspension of the work is ordered by the Engineer.

If the performance of all or any portion of the work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/ or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

Upon receipt, the Engineer will evaluate the contractor's request in accordance with Section 5.17 and/or Section 8.6 of the Standard Specifications. If the Engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contractor will be notified of the Engineer's determination whether or not an adjustment of the contract is warranted.

No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed.

No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
STANDARD TITLE VI ASSURANCE**

JANUARY 15, 2004

TITLE VI – NONDISCRIMINATION:

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 shall comply with the Regulations relative to nondiscrimination in Federally or State assisted programs of the South Dakota Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended (hereinafter referred to as the "Regulations"), incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, religion, national origin, sex, age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, religion, national origin, sex, age or disability.
- (4) Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the South Dakota Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the South Dakota Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain this information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the South Dakota Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
 - (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the South Dakota Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that, in the event of a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the South Dakota Department of Transportation to enter into such litigation to protect the interest of the State, and, in addition, the contractor may request the United States to enter such litigation to protect the interests of the United States.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION FOR
IMPLEMENTATION OF CLEAN AIR ACT
AND
FEDERAL WATER POLLUTION CONTROL ACT**

SEPTEMBER 1, 1997

By signing this bid, the bidder will be deemed to have stipulated as follows:

- a) That any facility to be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub. L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR, Part 15), is not listed on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
- b) That the State Transportation Department shall be promptly notified prior to contract award of the receipt by the bidder of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION REGARDING
MINIMUM WAGE ON
STATE FUNDED PROJECTS**

OCTOBER 1, 1999

This proposal contains the most recent minimum wage rates established by the South Dakota Transportation Commission.

If the amount of this contract, as awarded, is \$100,000.00 or more, the following provisions, as delineated in the current edition of the South Dakota Department of Transportation Labor Compliance Manual for Contractors, shall become applicable:

1. The contractor and each subcontractor shall pay his employees not less than the minimum wage established by the South Dakota Transportation Commission, a copy of which is contained in this proposal, for each job classification grouping such employees actually perform at the site of work.
2. The contractor and each subcontractor shall furnish each week in which any contract work is performed to the South Dakota Department of Transportation Labor Compliance Officer (LCO), whose address is 700 E. Broadway Ave., Pierre, SD 57501, a certified payroll of wages paid each of its employees. The payrolls submitted shall set out accurately and completely all information required by, and in a form acceptable, to the LCO as described in and according to applicable provisions of the most recent edition of the South Dakota Department of Transportation Labor Compliance Manual for Contractors.
3. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and be preserved for a period of three (3) years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, and guards working at the site of the work. The contractor or subcontractor shall make such records available for inspection, copying, or transcription by the LCO and shall permit his or her representatives to interview employees during working hours on the job.

* * * *

**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
HIGHWAY-HEAVY MINIMUM CONSTRUCTION WAGE RATES**

APPLICABLE TO STATE-FUNDED HIGHWAY PROJECTS AWARDED IN AMOUNT OF \$100,000 OR MORE

Effective on Projects Let After September 30, 2005

AGENCY: SDDOT
COUNTY: Statewide
(All)

See the reverse side of this document for more details
about meeting the minimum wage rate requirements.

DATE: 08/25/2005

LABORERS

GROUP GL1 13.14

Air Tool Op., Common Laborer, Landscape Wrkr, Flagger, Pilot Car Driver, Trucks under 26,000GVW, Blue-top Checker, Materials Checker

GROUP GL2 15.45

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

GROUP GL3 16.85

Asphalt Plant Tender, Pile Driver Leadsman, Form Setter, Oiler/Greaser

GROUP GL5 19.23

Form Builder, Carpenter

GROUP GL6 18.88

Concrete Finisher, Painter, Grade Checker

POWER EQUIPMENT OPERATORS

GROUP G01 14.59

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

GROUP G02 16.16

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

GROUP G03 17.70

Asphalt Distributor, Bull Dozer over 80 HP, Concrete Paving Finishing Machine, Backhoes/Excavators 20 tons or less, Crusher (may incl. Internal screening plant), Front End Loader over 1.25 CY, Rough Motor Grader, Self Propelled Hot Mix Roller, Push Tractor, Euclid or Dumpster, Material Spreader

GROUP G04 18.17

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

GROUP G05 19.93

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, Certified Welder

TRUCK DRIVERS

GROUP GT1 14.20

Tandem Truck w/o trailer or pup, or single axle truck over 26,000 GVW with Trailer

GROUP GT2 16.23

Semi-Tractor & Trailer, or Tandem Truck with Pup

ELECTRICIANS

GROUP E01 19.84

Journey person- persons performing duties of electrician and not registered in an approved Apprenticeship program

Unlisted classifications needed for work not included within the scope of those listed may be added after award by making application to the Office of Labor Compliance, 700 E Broadway, Pierre, SD 57501-2586, Telephone (605) 773-3795. Contractors are responsible for requesting additional classifications.

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

**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
HIGHWAY-HEAVY MINIMUM CONSTRUCTION WAGE RATES
Effective on Projects Let After September 30, 2005**

In practice, the wage rate is made up of two interchangeable components; the basic hourly wage and “bona fide” fringe benefits. These two components may be paid in cash and in any combination thereof. If fringe benefit contributions are credited towards fulfilling the basic hourly rate requirement in the wage determination, at least the basic hourly rate listed in the contract wage determination must be used in computing overtime pay obligations.

NOTE: If you are applying your “bona fide” fringe benefits towards meeting SDDOT’s minimum wage rates, the hourly cash credit value must be determined for each employee every week (unless prior approval of another method is obtained from the SDDOT Labor Compliance Officer) and the credit amounts must be provided on your Certified Payroll Report for each employee. The hourly credit value may be different for every employee each week, depending on the total number of hours worked each week and/or if the contribution paid by the employer is not the same for every employee. **In determining the hourly cash equivalent credit for fringe benefit payments, the period of time to be used is the period covered by the contribution. It is imperative that the total hours worked by employees be used as a divisor to determine the rate of contribution per hour since employees may work on both Davis-Bacon covered work and non-government work in the same period.** For example, assume \$16.00 is the minimum contract wage rate and during the week one employee had 35 hours that were worked on a Davis-Bacon covered contract, 20 hours were off site and \$275/month health insurance is the only bona fide employer-paid fringe. The hourly cash equivalent credit for this (example) week is \$1.15/hr ($\$275 \times 12 / 52 = \63.46 weekly value / 55 **TOTAL hours worked**). In this example, \$14.85 could be paid as the hourly cash wage and \$1.15/hr fringe credit applied toward meeting the minimum hourly rate. Overtime pay must be calculated on the full minimum rate of \$16.00, which is \$24.00 minus \$1.15/hr fringe credit = \$22.85/hr cash wage that must be paid for all contract overtime hours worked in this example. (Please see SDDOT’s Payroll Instructions & Frequently Asked Questions for further details at: http://www.sddot.com/Docs/Payroll_StmtofComplianceInstructions.doc)

Using the example above: The Group GO5 requires a minimum hourly wage of \$19.93 and the contractor may comply by paying:

1. \$19.93 an hour in cash wages; or
2. \$18.78 cash wage plus apply the \$1.15 an hour (health insurance) fringe benefit credit. In this example, **overtime must be calculated at one and one half times the basic hourly rate of \$19.93 which amounts to \$29.90/hour less the \$1.15/hour fringe credit, equals \$28.75/hour cash wage that must be paid for all overtime hours worked on covered project(s) for this example.**

Definition of the term “WAGES” reiterated at 29 CFR 5.2(p):

The term “wages” means the basic hourly rate of pay; any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a “bona fide” fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected.

“Bona Fide” Fringes reiterated at 29 CFR 5.29:

The “bona fide” fringe benefits enumerated in the Davis-Bacon Act include contractor or subcontractor making payments or incurring costs for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits.

“Bona Fide” Fringe benefits do not include benefits required by other Federal, State, or local law; such as Federal Withholding Tax and Social Security Tax. South Dakota State Law requires Workers Compensation Insurance and Unemployment Insurance.

“Bona Fide” Fringe benefits do not include payments made for travel, subsistence (per diem), or to industry promotion funds. The omission in the Act of any express reference to these payments, which are common in the construction industry, suggests that these payments should not normally be regarded as bona fide fringe benefits under the Act.

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STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
SUPPLEMENTAL SPECIFICATION FOR
ERRATA

OCTOBER 19, 2005

MAKE THE INDICATED CORRECTIONS TO THE FOLLOWING SPECIFIED SECTIONS:

Section 9.12 - Page 66 – Delete the third paragraph and replace with the following:

The Current Fuel Price Index price shall be the average of the recorded wholesale fuel prices for the four most recent weekly reporting periods.

The Base Fuel Index price for motor fuels and for heating and drying fuels to be used on the project shall be the average of the four most recent weekly reporting periods prior to the week of the letting.

Section 210.3 – Page 85 – Replace the first sentence in the second to last paragraph of this section with the following:

“The subgrade shall be finished to within minus 0.04 feet (13 mm) to plus 0.08 feet (25 mm) from the design grade and typical section shown in the plans.”

Section 491.5 A, B, C, D, E – Page 290 – Add the following to the end of the first sentence of each of these sections:

“(square meter).”

Section 629.4 C – Page 351 – Replace the first sentence with the following:

“Remove Three Cable Guardrail will be measured to the nearest foot (0.1 meter) along the centerline of the cable.”

Section 629.4 D – Page 351 – Replace the first sentence with the following:

“Removal of Anchor Assembly will be measured by the each.”

Section 630.3 D – Page 354 – Replace the fourth sentence with the following:

“The drawings shall contain all components of the W beam end terminal.”

Section 630.4 C – Page 355 – Replace the first sentence with the following:

“Remove Beam Guardrail will be measured to the nearest foot (0.1 meter) along the centerline of the rail.”

Section 634.2 – Page 371 – Replace the second paragraph with the following:

“Traffic control devices shall meet the crashworthy requirements of the National Cooperative Highway Research Program Report 350 (NCHRP 350) for Category I, II and III devices.”

Section 635.3 L – Page 383 – Delete and replace with the following:

L. Luminaires: Luminaires shall be adjusted on the support so the laminar sets level as indicated by a small bubble level. Bolts shall be firmly tightened.

Section 635.4 K – Page 385 – Delete and replace with the following:

K. Luminaires: Measurement will be by the actual count of the various types and sizes of luminaires furnished and installed.

Section 635.5 K – Page 387 – Delete and replace with the following:

K. Luminaires: Payment for luminaires of the various types and sizes will be at their respective contract unit prices per each. Payment will be full compensation for furnishing and installing luminaires.

Section 984.3 H – Page 504 – Replace the first paragraph with the following:

“Temporary road markers shall consist of a yellow or white plastic body providing a horizontal width and length of approximately 3 ½ inches (90 mm) in both dimensions and approximately ¾ inches (20 mm) high. If flexible vertical markers are used they shall be approximately 4 inches (100 mm) wide and approximately 2 inches (50 mm) high.”

Index – Page 532 – Under Portland Cement Concrete Pavement – Delete “Dowel and Tie Bars...517” and replace with the following:

Dowel and Tie Bars..... 519

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SUPPLEMENTAL SPECIFICATION TO
STANDARD SPECIFICATIONS FOR ROADS AND BRIDGES**

OCTOBER 19, 2005

All items included in this supplemental specification will govern over the Errata.

MAKE THE INDICATED CHANGES TO THE FOLLOWING SPECIFIED SECTIONS:

Section 120.5 F – Page 82 – Delete the last sentence and replace with the following:

Topsoil, seed, fertilizer and mulch for the restoration of the pit shall be incidental to the unit price per cubic yard (cubic meter) of contractor furnished borrow.

Section 260.3 A – Page 93 - Delete the first paragraph and replace with the following:

A. Subbase and Base Course: Roadway shaping shall be performed in accordance with Section 210.3 B prior to placement of the material.

Section 260.3 A – Page 94 - Delete the last paragraph and replace with the following:

Recycled Portland cement concrete pavement used as a granular base material shall not be used for Base Course, Salvaged Base Course, or in areas where drainage fabric, edge drains, or other similar drainage systems are present.

Section 270.4 - Page 97 – Add the following after the first paragraph:

When less than 5000 tons (4500 metric tons) of salvaged material is required on a project, the material may be measured in a stockpile and converted to tons (metric tons) using a factor of 1.5 tons per Cu. Yd. (1.78 metric tons per cubic meter), in lieu of weighing the material. Alternate measurement techniques may be allowed if agreed upon by the Contractor and Engineer prior to salvaging operations commencing.

Section 320.3 B.1 – Page 103 – Add the following to the end of the seventh paragraph:

An accurate thermometer must be installed in the tank so the temperature can be monitored.

Section 320.3 B.4 – Page 104 – Delete the third sentence of the first paragraph.

Section 320.3 B.4 – Page 105 – Delete the last sentence of the third paragraph and replace with the following:

The system shall be capable of manually controlling the transverse slope and the screed height.

Section 320.3 B.5 – Page 105 – Delete the last sentence of the first paragraph and replace with the following:

The rollers shall be capable of being reversed smoothly, without shoving or tearing the asphalt concrete.

Section 320.3 C.3.d – Page 106 – Delete and replace with the following:

d. A one-gallon (four liter) sample of asphalt binder intended for use shall be obtained from the designated supplier for the project.

Section 320.3 D – Page 107 – Delete the last sentence of the fifth paragraph and replace with the following:

A water spray system must be installed at the discharge end of the pug mill. This water system must be used when directed by the Engineer to prevent fugitive lime dust from being released into the air.

Section 320.3 E – Page 107 – Add the following after the fourth sentence in the first paragraph:

No material shall be used which could adversely affect the asphalt concrete.

Section 320.3F – Page 107 – Add the following new paragraph after the first paragraph:

Surfaces which have been primed with cutback asphalt shall be allowed to cure for a minimum of 72 hours prior to being overlaid with asphalt concrete.

Section 320.3 F – Page 110 – Delete the first paragraph at the top of Page 110 and replace with the following:

Irregularities shall be corrected before the temperature of the asphalt mix drops below 175° F (80° C). The longitudinal profile can only be improved by using a grinder with diamond blades mounted on a horizontal shaft and when approved by the Engineer. Areas that have been ground shall not be left smooth or polished, but shall have a uniform texture equal in roughness to the surrounding unground asphalt concrete. Grinding shall be day lighted to the outside edge of the pavement. Ground surfaces shall be flushed sealed. Under no circumstances shall operations continue when it becomes evident final rolling is not producing a smooth, uniform, compacted surface free from roller marks and other irregularities.

Section 320.4 A – Page 111 – Add the following after the first sentence:

Quantities of asphalt binder in excess of the asphalt content listed on the job mix formula plus 0.3% tolerance will not be accepted for payment.

Section 320.4 E – Page 112 – Add the following after the first sentence:

Quantities of hydrated lime in excess of the lime content listed on the job mix formula plus 0.1% tolerance will not be accepted for payment.

Section 324.5 – Page 115 and 116 – Delete the last sentence and replace with the following:

When required, the following shall also be included in the contract unit price per ton (metric ton) for Asphalt Concrete Composite: Asphalt for Prime MC-70, Blotting Sand for Prime, Asphalt for Flush Seal SS-1h or CSS-1h, Sand for Flush seal, Hydrated Lime, equipment, labor and incidentals necessary.

Section 330.2 – Page 121 – Add the following to the end of this section:

D. Sand for Fog Seal: Section 879

Section 330.3 A.2.b – Page 121 – Add the following paragraph after the second paragraph:

Surfaces primed with cutback asphalt shall be allowed to cure for a minimum of 72 hours prior to being overlaid with asphalt concrete.

Section 350.2 – Page 127 – Delete this section and replace with the following:

The sealant shall conform to the requirements of ASTM D-6690 Type IV.

The sealant material shall have a unit weight no greater than 9.35 lbs./gal (1124 kilograms per cubic meter).

Only products that meet the above requirements and have performed satisfactorily based on Department analysis may be used. A listing of acceptable products meeting ASTM D-6690 Type IV requirements may be obtained from the Department's Approved Products List. Products on the Approved Products list for Joint Sealant for Asphalt Over Long Jointed Concrete Pavement may also be used.

The blocking medium shall be an inert, compressible material, which is compatible with the sealant.

Section 380.3 M.2 – Page 151 – Delete the first sentence of the last paragraph and replace with the following:

The Contractor shall load test five percent of the first 500 tie bars that are drilled and epoxied in place.

Section 391.2 A – Page 171 – Add the following paragraph to the end of this Section:

Alternate design mixes for the grout may be submitted to the Engineer for approval.

Section 392.2 A – Page 177 – Add the following paragraph to the end of this section:

Alternate jacking slurry design mixes may be submitted to the Engineer for approval.

Section 430.2 B – Page 223 – Delete this section and replace with the following:

B. Granular Bridge End Backfill: The granular bridge end backfill material shall conform to Section 882.

Section 430.3 C – Page 225 – Delete the second and third paragraphs and replace with the following:

Granular bridge end backfill shall not be placed until at least 24 hours after completion of the deck pour. In addition, granular bridge end backfill shall not be placed until the abutments and sills, including wingwalls, have attained full design strength.

Granular bridge end backfill shall be placed in loose lifts not to exceed eight inches (200 mm) and compacted to 97% of maximum dry density. The moisture at the time of compaction shall be within $\pm 4\%$ of optimum moisture. Maximum dry density and optimum moisture will be determined in accordance with SD 104.

Section 430.3 C.1 through 6 – Page 225 and 226 – Delete and replace with the following:

1. Each layer of granular bridge end backfill shall be placed in loose lifts not to exceed eight inches (200 mm). The placement and compaction of each layer must be inspected and approved by the Engineer prior to placement of the next layer.
2. Any equipment used to install the bridge end backfill over the geotextile fabric shall be operated in such a manner that the geotextile fabric is not damaged. To avoid damage to the geotextile fabric, the equipment used to place, spread, and compact the granular bridge end backfill over the geotextile fabric shall not be operated on less than six inches (150 mm) of material.
3. The geotextile fabric may be oriented in any direction. To minimize the horizontal deflection of the mechanically stabilized vertical face, it is extremely important to make sure that the geotextile fabric is taut and free of wrinkles during placement of the granular bridge end backfill.
4. Any geotextile fabric that is torn or punctured shall be repaired or replaced by the Contractor at no additional cost to the Department. The repair shall consist of a patch of the same type of geotextile fabric being placed over the ruptured area such that it overlaps the damaged area a minimum of 3 ft. (1 m) from any damaged edge. A sewn patch meeting the same requirements for seam strength as that of the fabric being repaired is allowed.
5. Seams that are perpendicular to face of the mechanically stabilized backfill may be constructed by overlapping the fabric a minimum of two feet (0.6 m). All other seams, as well as those in which the two foot (0.6 m) minimum overlap cannot be accomplished, shall be sewn. All seams shall be inspected by the Engineer and any deficient seams repaired by the Contractor prior to placement of the next layer of granular bridge end backfill. Geotextile fabric that is joined by sewn seams shall have strength properties at the seam equal to the specified strength requirements of the geotextile fabric. High strength polyester,

polypropylene, or kevlar thread shall be used for sewn seams. Nylon threads shall not be used. The edges of the fabric shall be even and shall be completely penetrated by the stitch.

6. During periods of shipment and storage, the geotextile fabric shall be enclosed in a heavy duty opaque wrapping such that the fabric is protected from direct sunlight, ultraviolet rays, dirt or debris. The fabric shall not be subjected to temperatures greater than 140°F (60°C).

Section 430.5 B – Page 227 – Delete the second sentence and replace with the following:

Payment will be full compensation for all labor, equipment, materials, water, and all other items incidental to scarifying, reshaping and recompacting the area to be backfilled, furnishing and installing the polyethylene sheeting, drainage fabric, geotextile fabric, and furnishing, placing, and compacting the porous backfill and granular bridge end backfill to the limits shown on the plans.

Section 460.3 A – Page 236 – Delete the second sentence in Note 1 under Table 1.

Section 460.3 K – Page 248 – Delete the twelfth paragraph and replace with the following:

Barrier curbs will not be allowed to be placed with slipform paving equipment.

Section 465.2 A.3– Page 265 – Add the following sentence to the end of the paragraph:

Slump loss shall be tested in accordance with SD 423.

Section 480.3 C.1 – Page 280 – Delete the fifth paragraph and replace with the following:

Welding of reinforcing steel shall not be allowed without written approval of the Bridge Construction Engineer. The request for approval shall list the bars to be welded, welding procedure, type of electrode, joint detail, and mill certificate of the reinforcing steel to be welded.

Section 480.4 – Page 281 and 282 – Delete the English and Metric Bar Designation tables and replace with the following:

Bar Designation

Size (English)	No. 3	No. 4	No. 5	No. 6	No. 7	No. 8	No. 9	No. 10	No. 11	No. 14	No. 18
Weight (lb/ft)	0.376	0.668	1.043	1.502	2.044	2.670	3.400	4.303	5.313	7.65	13.60
Size (Metric)	10	13	16	19	22	25	29	32	36	43	57
Weight (kg/m)	0.560	0.994	1.552	2.235	3.042	3.973	5.060	6.404	7.907	11.38	20.24

Section 550.3 A.2 – Page 303 – Delete the second sentence of the last paragraph and replace with the following:

When backfilling extra depth holes in accordance with 550.3 C.1.f.2, a grout admixture shall be added to the grout mixture in accordance with the manufacturer's recommendations.

Section 550.3 C.1.f.2 – Page 306 – Delete the first sentence and replace with the following:

Backfill of Extra Depth Holes: When Type 1D removal is necessary, or when holes deeper than 4" (100mm) below the top of the scarified surface are encountered, they shall be backfilled as follows:

Section 560.2 A – Page 317 – Add the following:

6. **Cement:** Section 750.

Section 600.2 A.17 – Page 333 – Add the following sentence at the end of the paragraph:

The concrete pad must be securely mounted and solidly supported under the laboratory to minimize vibration while operating the Marshall compactor.

Section 605.3 C – Page 339 – Delete the third sentence of the first paragraph and replace with the following:

If fly ash is used, the minimum amount of cement to be replaced is 15 percent and the maximum amount is 20 percent at a 1:1 ratio by weight.

Section 633.3 D – Page 368 – In the grooving tolerance tables, replace “Depth of Groove” with the following:

	(English)	
Depth of Groove	80 mils	+ 10 mils
	(Metric)	
Depth of Groove	2.032 mm	+ 0.25 mm

Section 635.3 C.3 – Page 380 – Add the following sentence at the end of the first paragraph:

The contractor shall not use a machine requiring flowing water for installation of conduit under streets or roadways unless approved by the Engineer.

Section 635.3 H – Page 382 – Delete the first paragraph and replace with the following:

Traffic signal conductors shall be continuous from the controller cabinets to the pole bases. Splicing of conductors will not be allowed in the junction boxes.

Section 635.3 R.3 – Page 384 – Delete the first sentence in the first paragraph and replace with the following:

All circular red, red arrow, circular yellow, yellow arrow, circular green, green arrow, and pedestrian indications shall be light emitting diode (LED) signal modules.

Section 635.5 E – Page 386 – Delete and replace with the following:

E. Anchor Bolts: Cost for anchor bolts shall be included in the contract unit price for the concrete for which they are incorporated with.

Section 730.2 C – Page 407 – Delete the fourth sentence and replace with the following:

If the seed is not planted within the 9 month period, the Contractor shall have the seed retested for germination, as described above, and a new certified test report shall be furnished prior to starting seeding operations.

Section 734.3 B.2 – Page 424 – Delete the second sentence and replace with the following:

The muck will be removed when the surface of the muck is at approximately one-third the height of the silt fence.

Section 750 – Page 431 – Add the following after the second paragraph:

At the option of the manufacturer, processing additions may be used in the manufacture of the cement, provided the addition is comprised of a naturally occurring limestone with a minimum of 85% by mass of one or more of the mineral forms of calcium carbonate. The total amount of processing additions used shall not exceed 3%, with a tolerance of +0.5%, of the weight of the Portland cement clinker.

In addition to the certification requirement specified in SD 416, when limestone is used as a processing addition, the manufacturer shall certify the amount used as a percentage of Portland cement clinker, the percentage of

Calcium Carbonate, and shall supply comparative test data on chemical and physical properties of the cement with and without the limestone. The comparative tests do not supersede the normal testing to confirm that the cement meets chemical and physical requirements.

The calcium carbonate percentage, amount of limestone used, and comparative test data shall be determined in accordance with ASTM C150-04.

Section 800.2 D – Page 436 – Add the following sentence to the end of the fourth paragraph:

Fine aggregate with a 14 day expansion value of 0.400 or greater shall not be used.

Section 800.2 D – Page 436 – Add the following sentence to the end of the last paragraph:

The expansion value of the blended sources will be used to determine the type of cement required.

Section 870.1 A – Page 452 – Delete this section and replace with the following:

A. Hot Poured Elastic Joint Sealer: The sealant shall conform to the requirements of ASTM D 6690 Type II or Type IV or be on the Departments approved products list for Joint Sealants for Asphalt Over Long Jointed Concrete Pavement.

Sealant material shall not weigh more than 9.35 lbs./gal.

Test methods shall conform to ASTM D 5329, except the fine aggregate used in preparing the concrete test blocks shall conform to Section 800. The Contractor shall furnish a certificate of compliance for hot poured elastic joint sealer not listed on the approved products list.

Section 880.2 A - Table 1, under Class E, Type 1 – Page 455 – No. 4 (4.75 mm) Sieve – Delete the “45-70” requirement and replace with “45-75”.

Section 880.2 A – Page 456 – Delete the first note under Table 1 and replace with the following:

* - A tolerance of 3 percent may be retained on the ¾” (19.0 mm) sieve provided all material passes the 1” (25 mm) sieve.

Section 882.2 – Page 459 – Delete Table 1 and replace with the following:

Table 1

REQUIREMENT	Subbase	Gravel Cushion	Granular Bridge End Backfill	Aggregate Base Course	Limestone Ledge Rock		Gravel Surfacing
					Base Course	Gravel Cushion	
SIEVE	PERCENT PASSING						
2" (50 mm)	100						
1" (25.0 mm)	70-100		100	100	100		
3/4" (19.0 mm)		100	80-100	80-100	80-100	100	100
½" (12.5 mm)			68-91	68-91	68-90		
No. 4 (4.75 mm)	30-70	50-75	42-70	46-70	42-70	46-70	50-78
No. 8 (2.36 mm)	22-62	38-64	29-58	34-58	29-53	29-53	37-67
No. 40 (425 μm)	10-35	15-35	10-35	13-35	10-28	10-28	13-35
No. 200 (75 μm)	0.0-15.0	3.0-12.0	0.0-5.0	3.0-12.0	3.0-12.0	3.0-12.0	4.0-15.0

Liquid Limit Max		25	25	25	25	25	
Plasticity Index	0-6	0-6	0-6	0-6	0-3	0-3	4-12
L.A. Abra. Loss, max.	50	40	40	40	40	40	40
Foot Notes		2	1,2	1,2			
Processing Required	crushed	crushed	crushed	crushed	crushed	crushed	crushed

Section 890.2 G – Page 465 – In the table, under TESTS ON RESIDUE FROM DISTILLATION TESTS, add the following after Elastic Recovery @ 50°F (10°C):

(see Note 4)

Section 890.2 G – Page 465 – Add the following after Note 3:

Note 4: The Elastic Recovery test shall be in accordance with AASHTO T301, except that the residue will be obtained by distillation, not oven evaporation. The distillation temperature shall be as recommended by the emulsion manufacturer.

Section 972.2 B – Page 479 – Delete the second paragraph and replace with the following:

For bolts that are 1" (M24) (incl.) in diameter and less, the maximum hardness for AASHTO M164 (ASTM A325) bolts shall be 33 Rc.

Section 981.1 A – Page 489 – Delete the first paragraph and replace with the following:

A. Glass beads for use with pavement marking paint shall be moisture resistant conforming to AASHTO M247, Type I. The glass beads shall be without flotation properties. The glass beads shall have dual surface treatment consisting of a moisture resistant silicone treatment, and silane adherence surface treatment. The glass beads shall have a minimum of 80% true spheres. Roundness shall be tested in accordance with SD 510.

Section 983.1 – Page 499 – Delete the third sentence of the first paragraph:

Section 983.1 B – Page 499 – Delete this section in it's entirety.

Section 983.2 B – Page 500 – Delete this section in it's entirety.

Section 985.1 D – Page 506 – Delete the last two sentences of the first paragraph and replace with the following:

Vertical reinforcement shall be deformed unless otherwise noted and shall conform to the requirements of ASTM A 615/AASHTO M 31 Grade 60 (400). Circular ties, stirrups, and spiral reinforcing may be fabricated from deformed bars conforming to the requirements of ASTM A 615/AASHTO M31 Grade 60 (400). Spiral reinforcing may also be fabricated from cold drawn wire conforming to ASTM A 82 or hot rolled plain bars conforming to ASTM A 615/AASHTO M 31 Grade 60 (400).

Section 985.1 G.4 – Page 508 – Delete the first sentence and replace with the following:

Conductor insulation shall be colored in accordance with ICEA S-95-658, Method 1, Table K-2.

Section 985.1 G.5 – Page 508 – Delete the first sentence and replace with the following:

Jackets shall be polyvinyl chloride meeting UL requirements for Class 12 jackets and ICEA S-95-658, Section 4.

Section 985.1 I.1.b – Page 508-509 – Delete the last sentence in the paragraph:

Section 985.1 N – Page 514 – Delete the second sentence in the fifth paragraph and replace with the following:

The flash control circuit shall ensure that remote transfer to flashing from normal stop and go operations occurs during the end of the mainline green interval in the cycle.

Section 985.1 N.1 and 2 – Page 515 – Delete these two sections and replace with the following sentence:

The controller furnished shall meet current NEMA TS2 standards for controllers.

Section 985.1 Q.7 – Page 516 – Delete and replace with the following:

7. Backplates for Signal Heads: Unless otherwise stated on the plans, backplates may be either 0.050 inch (1.27 mm) thick aluminum or 0.125 inch (3.18 mm) thick polycarbonate. The polycarbonate backplates must be made up from no more than two pieces.

Section 990.1 A.2.a – Page 517 – Delete and replace with the following:

- a. Portland cement shall conform to Section 750.

Section 1010.1 A – Page 519 – Add the following to the end of the first sentence:

Bar reinforcement shall be deformed, unless otherwise noted.

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**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION
FOR
PRICE SCHEDULE FOR MISCELLANEOUS ITEMS**

OCTOBER 19, 2005

The following unit bid prices have been established by the Transportation Commission.

These prices will be pre-entered on the Bid Schedule sheets for each project or will establish a standard price to be used whenever no project contract unit price exists for that item.

Each unit price listed is considered full compensation for the cost of labor, material, and equipment to provide the item of work and/or material, complete in place, including (but not limited to) royalty, waste of unsuitable materials, equipment rental, overhead, profit, and incidentals.

Items specified in this document may be paid for on progressive estimates without the benefit of a prior approved Construction Change Order.

Use the equivalent metric unit prices that are listed in parenthesis below the item prices on metric projects.

Specification Section Number	Specification Section Name	Item Name	Price Per Item
5.8	Construction Stakes, Lines and Grades	Three-Man Survey Crew	\$110.00/hour
7.7	Public Convenience and Safety	Water	\$11.50/M.Gal (\$3.04/cubic meter)
9.3	Payment for extra haul of Materials	Extra Haul	\$0.12/ton mile (\$0.08/mton kilometer)
120.5 A.4.	Roadway and Drainage Exc. & Emb.	Unclassified Excavation Digouts	\$5.00/cu. yd. (\$6.54/cubic meter)
120.5 G.	Roadway and Drainage Exc. & Emb.	Extra Haul	\$0.04/cu. yd. station (\$1.72/cubic meter station)
120.5 H	Roadway and Drainage Exc. & Emb.	Water for Embankment	\$11.50/M. Gal (\$3.04/cubic meter)
421.5	Undercutting Pipe & Plate Pipe	Undercutting Culverts	\$12.00/cu. yd. (\$15.69/cubic meter)
510.5 D.	Timber, Prestressed, and Steel Piles	Timber Pile Splice	\$400.00/each
		Steel Pile Splices (* All Weights)	Splice made after one of the pieces has been driven.
		8 HP* (HP 200)	\$190.00/each
		10 HP* (HP 250)	\$270.00/each
		12 HP* (HP 300)	\$330.00/each

		14 HP* (HP 350)	\$390.00/each
			Splice made before either of the pieces has been driven.
		8 HP* (HP 200)	\$65.00/each
		10 HP* (HP 250)	\$85.00/each
		12 HP* (HP 300)	\$100.00/each
		14 HP* (HP 350)	\$120.00/each
510.5 E	Timber, Prestressed, and Steel Piles	Pile Shoes (Timber Pile)	\$50.00/each
510.5.H	Timber, Prestressed, and Steel Piles	Pile Tip Reinforcement (Steel Pile)	
		10" (250mm) HP Tip Reinforced	\$60.00/each
		12" (300 mm) HP Tip Reinforced	\$70.00/each
		14" (350 mm) HP Tip Reinforced	\$85.00/each
601.5	Haul Roads	Granular Material	\$5.00/ton (\$5.51/mton)
601.5	Haul Roads	Asphalt Concrete (including asphalt)	\$45.00/ton (\$49.60/mton)
601.5	Haul Roads	Cover Aggregate	\$16.00/ton (\$17.63/mton)
601.5	Haul Roads	Asphalt (Tack, Prime, Flush & Surface Treatment)	\$300.00/ton (\$330.00/mton)
601.5	Haul Roads	Water	\$11.50/M. Gal. (\$3.04/cubic meter)
601.5	Haul Roads	Dust Control Chlorides	\$0.30/lb (\$0.66/kg)
634.5	Traffic Control	Flagging	\$20.52/hour
634.5	Traffic Control	Pilot Car	\$30.20/hour

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