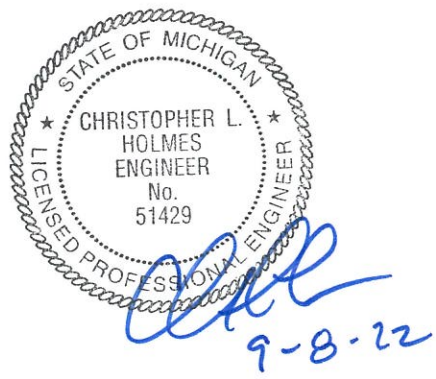
# PROPOSAL
and
# SPECIFICATIONS
for

## BARAGA COUNTY ROAD COMMISSION

**ERFO 8 - Sutinen Road**
**ERFO 9 - Payne Road**

**Baraga County, Michigan**




Prepared by:

U.P. Engineers & Architects, Inc.
100 Portage Street
Houghton, MI 49931
UPEA Job No.: B10-00116
September 2022

**BARAGA COUNTY ROAD COMMISSION**
**ERFO 8 - SUTINEN ROAD**
**ERFO 9 - PAYNE ROAD**
**BARAGA COUNTY, MICHIGAN**

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# BIDDING REQUIREMENTS

**ADVERTISEMENT FOR BIDS**

**BARAGA COUNTY ROAD COMMISSION**

Baraga County Road Commission (Owner) is requesting Bids for the construction of two projects, two (2) separate bids will be solicited, and separate contracts will be awarded for the following projects:

1. **ERFO 8 & 9 - SUTINEN ROAD AND PAYNE ROAD:** Placing an aggregate surface course, grading, and ditching. **Bid Due at 1:00 P.M. ET**
2. **ERFO 7 – POINT ABBAYE ROAD:** Placing an aggregate surface course, grading, and ditching. **Bid Due at 1:30 P.M. ET**

Bids for the construction of the Projects will be received at the **Baraga County Road Commission** located at **18139 US-41, P.O. Box 217, L'Anse, Michigan 49946**, until time stated on **September 27, 2022.** At that time the Bids received will be publicly opened and read. Contractor please clearly mark "***BID ENCLOSED***" with **Project Site Name Identified** on the outside envelope of sealed bid.

The Issuing Office for the Bidding Documents is:

U.P. Engineers & Architects, Inc.
100 Portage Street, Houghton, MI 49931
(906) 482-4810

Prospective Bidders may obtain or examine the Bidding Documents at the Issuing Office on Monday through Friday between the hours of 9:00 AM - 4:00 PM Eastern time and may obtain copies of the Bidding Documents from the Issuing Office as described below. Partial sets of Bidding Documents will not be available from the Issuing Office. Neither Owner nor Engineer will be responsible for full or partial sets of Bidding Documents, including addenda, if any, obtained from sources other than the Issuing Office.

Bidding documents also may be examined at the following Builder Exchanges: Iron Mountain, Marquette, Delta County, McGraw-Hill Dodge and Construction Association of Michigan.

Printed copies of the Bidding Documents may be obtained from the Issuing Office by paying a deposit of $50.00 nonrefundable handling fee for each set of contract documents. Alternatively, bidding documents are available as portable document format (PDF) files for a non-refundable charge of $20.00. Make deposit checks for Bidding Documents payable to U.P. Engineers & Architects, Inc.

Bid security shall be furnished in accordance with the Instructions to Bidders. The Bid Bond or certified check payable to Owner shall be in an amount no less than 5% of the maximum bid as a guarantee, that if the Bid is accepted, the Bidder will execute and file the Contract, Performance and Payment Bonds, and Insurance Certification, as required by the Contract Documents within (10) days after the Notice of Award and Bid may not be withdrawn for a period of 30 days after the bid deadline.

The Owner reserves the right to waive any informality or to reject any or all bids.

INSTRUCTIONS TO BIDDERS

For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

WAGE RATES

Minimum wages to be paid on the project shall be in accordance with the prevailing wage rates included in the bidding documents.

GOVERNMENT LAWS AND REGULATIONS


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This is a Federally Funded project. The Contractor and Subcontractors on this project must comply with Tribal Employment Rights Office (TERO) preference, HUD contract provisions 24CFR part 85.36(i), the Davis Bacon Act, Federal Occupational Safety and Health Act and Department of Labor Standards and Regulations as set forth in the Contract Bid Documents.

Owner: Baraga County Road Commission
By: Douglas J. Mills, P.E., Engineer/Manager


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# INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

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**ARTICLE 1—DEFINED TERMS**

1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. *Issuing Office*—The office from which the Bidding Documents are to be issued, and which registers plan holders.

The issuing office for the Project shall be: U.P. Engineers & Architects, Inc., 100 Portage Street, Houghton, Michigan 49931, (906) 482-4810. Contact: Josh Harju for questions on bid documents.

**ARTICLE 2—BIDDING DOCUMENTS**

2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.

2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.

2.03 Bidder may register as a plan holder and obtain complete sets of Bidding Documents, in the number and format stated in the Advertisement or invitation to bid, from the Issuing Office. Bidders may rely that sets of Bidding Documents obtained from the Issuing Office are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.

2.04 *Electronic Documents*

A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.

1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.

B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in


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Paragraph 2.04.A above. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

**ARTICLE 3—QUALIFICATIONS OF BIDDERS**

3.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within **five** days of Owner's request, Bidder must submit the following information:

A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.

B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.

C. Bidder's state or other contractor license number, if applicable.

D. Subcontractor and Supplier qualification information.

E. Other required information regarding qualifications.

F. References with name, address, and telephone number.

G. Equipment list.

H. Employee information.

I. List of all projects under contract with contracted completion dates, itemized work remaining, schedule for completion, employees and equipment assigned to project.

J. List of projects which have been awarded but not yet under contract, along with contracted completion dates, itemized scope of work, schedule for completion, employees and equipment assigned to project.

K. Detailed description of employees and equipment to be assigned to this project including subcontractor information.

3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.

3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.


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**ARTICLE 4—PRE-BID CONFERENCE**

4.01 None.

**ARTICLE 5—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE**

5.01 *Site and Other Areas*

A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

5.02 *Existing Site Conditions*

A. *Subsurface and Physical Conditions; Hazardous Environmental Conditions*

1. The Supplementary Conditions identify the following regarding existing conditions at or adjacent to the Site:

a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.

b. Those drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data.

c. Reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.

d. Technical Data contained in such reports and drawings.

2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.

3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.

~~4. *Geotechnical Baseline Report/Geotechnical Data Report:* The Bidding Documents contain a Geotechnical Baseline Report (GBR) and Geotechnical Data Report (GDR).~~

~~a. As set forth in the Supplementary Conditions, the GBR describes certain select subsurface conditions that are anticipated to be encountered by Contractor during construction in specified locations ("Baseline Conditions"). The GBR is a Contract Document.~~


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~~b. The Baseline Conditions in the GBR are intended to reduce uncertainty and the degree of contingency in submitted Bids. However, Bidders cannot rely solely on the Baseline Conditions. Bids should be based on a comprehensive approach that includes an independent review and analysis of the GBR, all other Contract Documents, Technical Data, other available information, and observable surface conditions. Not all potential subsurface conditions are baselined.~~

~~c. Nothing in the GBR is intended to relieve Bidders of the responsibility to make their own determinations regarding construction costs, bidding strategies, and Bid prices, nor of the responsibility to select and be responsible for the means, methods, techniques, sequences, and procedures of construction, and for safety precautions and programs incident thereto.~~

~~d. As set forth in the Supplementary Conditions, the GDR is a Contract Document containing data prepared by or for the Owner in support of the GBR.~~

B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05 of the General Conditions, and not in the drawings referred to in Paragraph 5.02.A of these Instructions to Bidders. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

5.03 *Other Site-related Documents*

A. No other Site-related documents are available.

5.04 *Site Visit and Testing by Bidders*

A. Bidder is required to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.

B. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.

C. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.

D. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.

E. Bidder must fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.


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5.05 *Owner's Safety Program*

A. Site visits and work at the Site may be governed by an Owner safety program. If an Owner safety program exists, it will be noted in the Supplementary Conditions.

5.06 *Other Work at the Site*

A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

**ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS**

6.01 *Express Representations and Certifications in Bid Form, Agreement*

A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder's examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications, and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.

B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

**ARTICLE 7—INTERPRETATIONS AND ADDENDA**

7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.

7.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Engineer in writing.

7.03 Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than seven days prior to the date for opening of Bids may not be answered.

7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.


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**ARTICLE 8—BID SECURITY**

8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of **5** percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents.

8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.

8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Contract or 30 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.

8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

**ARTICLE 9—CONTRACT TIMES**

9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.

9.02 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

**ARTICLE 10—SUBSTITUTE AND "OR EQUAL" ITEMS**

10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those "or-equal" or substitute or materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an "or-equal" or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer within 10 days of the issuance of the Advertisement for Bids or invitation to Bidders. Each such request must comply with the requirements of Paragraphs 7.05 and 7.06 of the General Conditions, and the review of the request will be governed by the principles in those paragraphs. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all registered Bidders. Bidders cannot rely upon approvals made in any other manner.


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10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

**ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

11.01 The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a list of the following portions of the Work within five days after Bid opening:

A. **Other work under contract during same period as this work.**

B. **Other work for which Bidder is low Bidder, but not yet under contract for the same period as this work.**

11.02 If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.

11.03 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.07 of the General Conditions.

**11.04 – Contractor shall not be required to employ any Subcontractor, Supplier, individual, or entity against whom Contractor has reasonable objection.**

**11.05 – The Contractor shall not award work to Subcontractor(s) in excess of the limits stated in SC 7.07A.**

**ARTICLE 12—PREPARATION OF BID**

12.01 The Bid Form is included with the Bidding Documents.

A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.

B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."

12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version


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of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.

12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.

12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.

12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.

12.06 A Bid by an individual must show the Bidder's name and official address.

12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.

12.08 All names must be printed in ink below the signatures.

12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.

12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.

12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.

12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

**ARTICLE 13—BASIS OF BID**

13.01 *Unit Price*

A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.

B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity", which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total


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will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.

C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

13.02 *Allowances*

A. For cash allowances the Bid price must include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of cash allowances, if any, named in the Contract Documents, in accordance with Paragraph 13.02.B of the General Conditions.

**ARTICLE 14—SUBMITTAL OF BID**

14.01 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.

14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked package with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation **"BID ENCLOSED. – Bid Schedule"** A mailed Bid must be addressed to the location designated in the Advertisement.

14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

**ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID**

15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.

15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.

15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.


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**ARTICLE 16—OPENING OF BIDS**

16.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

**ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

**ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT**

18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.

18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.

18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.

18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.

18.05 *Evaluation of Bids*

A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

B. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.

18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

**ARTICLE 19—BONDS AND INSURANCE**

19.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if


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any), and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.

19.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

**ARTICLE 20—SIGNING OF AGREEMENT**

20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

**ARTICLE 21—SALES AND USE TAXES**

21.01 ~~Owner is exempt from **[name of state]** state sales and use taxes on materials and equipment to be incorporated in the Work. (Exemption No. **[number]**). Said taxes must not be included in the Bid. Refer to Paragraph SC-7.10 of the Supplementary Conditions for additional information.~~

**ARTICLE 22—CONTRACTS TO BE ASSIGNED**

**Not Used.**

**ARTICLE 23 – FEDERAL REQUIREMENTS**

**23.01 If the contract price is in excess of $100,000, provisions of the Contract Work Hours and Safety Standards Act at 29 CFR 5.5(b) apply.**

**23.02 Federal requirements at Article 19 of the Supplementary Conditions apply to this Contract.**

**23.03 American Iron and Steel requirements apply to this project.**

**23.04 DAVIS-BACON WAGES ARE REQUIRED.**


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# BID FORM FOR CONSTRUCTION CONTRACT

**BARAGA COUNTY ROAD COMMISSION**
**ERFO 8 – Sutinen Road**
**ERFO 9 – Payne Road**
**B10-00116**

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

## ARTICLE 1—OWNER AND BIDDER

1.01 This Bid is submitted to: **Baraga County Road Commission, 18139 US-41, P.O. Box 217, L'Anse, Michigan 49946.**

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

## ARTICLE 2—ATTACHMENTS TO THIS BID

2.01 The following documents are submitted with and made a condition of this Bid:

**A. Required Bid security;**

**B. List of Proposed Subcontractors;**

**C. List of Proposed Suppliers;**

**D. Non-Collusion Statement**

## ARTICLE 3—BASIS OF BID

3.01 *Unit Price Bids*

A. Bidder will perform the following Work at the indicated unit prices:


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**ERFO 8 - Sutinen Road**

| Item No. | Description | Unit | Estimated Quantity | Bid Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 1100001 | Mobilization, Max 5% | LSUM | 1 | $ | $ |
| 2050030 | Machine Grading | Sta | 24.5 | $ | $ |
| 3060006 | Aggregate Surface Cse | Ton | 650 | $ | $ |
| 8120170 | Minor Traf Devices | LSUM | 1 | $ | $ |
| 8120350 | Sign, Type B, Temp, Prismatic, Furn | Sft | 52 | $ | $ |
| 8120351 | Sign, Type B, Temp, Prismatic, Oper | Sft | 52 | $ | $ |
| | | | | **Total Bid Price Bid for ERFO 8** | **$** |

(Words)

**ERFO 9 - Payne Road**

| Item No. | Description | Unit | Estimated Quantity | Bid Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 1100001 | Mobilization, Max 5% | LSUM | 1 | $ | $ |
| 2050030 | Machine Grading | Sta | 21.2 | $ | $ |
| 3060006 | Aggregate Surface Cse | Ton | 550 | $ | $ |
| 8120170 | Minor Traf Devices | LSUM | 1 | $ | $ |
| 8120350 | Sign, Type B, Temp, Prismatic, Furn | Sft | 52 | $ | $ |
| 8120351 | Sign, Type B, Temp, Prismatic, Oper | Sft | 52 | $ | $ |
| | | | | **Total Bid Price Bid for ERFO 9** | **$** |

(Words)

| | |
|---|---|
| **TOTAL OF ERFO 8 + ERFO 9 BID ITEMS** | **$** |

(Words)

B. Bidder acknowledges that:

1. each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and


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2. estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.

**ARTICLE 4—TIME OF COMPLETION**

4.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

4.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

**ARTICLE 5—BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA**

5.01 *Bid Acceptance Period*

A. This Bid will remain subject to acceptance for 30 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

5.02 *Instructions to Bidders*

A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

5.03 *Receipt of Addenda*

A. Bidder hereby acknowledges receipt of the following Addenda:

| Addendum Number | Addendum Date |
|---|---|
| | |
| | |
| | |

**ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS**

6.01 *Bidder's Representations*

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.


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5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.

6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.

9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

6.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.

2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

3. Bidder has not solicited or induced any individual or entity to refrain from bidding.

4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:

a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.

b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices


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at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.

c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.

d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.


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BIDDER hereby submits this Bid as set forth above:

Bidder:

_____

*(typed or printed name of organization)*

By: _____

*(individual's signature)*

Name: _____

*(typed or printed)*

Title: _____

*(typed or printed)*

Date: _____

*(typed or printed)*

*If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.*

Attest: _____

*(individual's signature)*

Name: _____

*(typed or printed)*

Title: _____

*(typed or printed)*

Date: _____

*(typed or printed)*

Address for giving notices:

_____

_____

Bidder's Contact:

Name: _____

*(typed or printed)*

Title: _____

*(typed or printed)*

Phone: _____

Email: _____

Address:

_____

_____

_____

Bidder's Contractor License No.: (if applicable) _____


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# NON-COLLUSION STATEMENT

**ERFO 8 - Sutinen Road**

**ERFO 9 - Payne Road**

JOB NAME:

The undersigned _____

(name printed or typed)

title _____ declares under penalty of perjury of the laws of the United

(office in company)(official relationship)

States that _____

(official company name)

is/are the Contractor submitting this bid, and that its agents, officers or employees have not directly or indirectly entered into any agreements, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal for the above project.

_____

authorized signature

Each bidder shall file a signed statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid, certifying that such person, firm, association, or corporation has not, either 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 submitted bid. Failure to submit the signed statement as part of the bid will be cause for rejection of the bid.

**DOCUMENT 00430**

**LIST OF PROPOSED SUBCONTRACTORS**

Herewith is the list of subcontractors referenced in the bid submitted by:

(Bidder) .....

To (Owner) Baraga County Road Commission
**ERFO 8 - Sutinen Road**
**ERFO 9 - Payne Road**

Dated ..... and which is an integral part of the Bid Form.

The following work will be performed (or provided) by subcontractors and coordinated by us. Changes shall not be made subsequent to the Bid unless the change(s) are approved by the Owner.

| WORK SUBJECT | SUBCONTRACTOR NAME |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

**DOCUMENT 00440**

**LIST OF PROPOSED SUPPLIERS**

Herewith is the list of suppliers referenced in the bid submitted by:

(Bidder) .....

To (Owner) Baraga County Road Commission
**ERFO 8 - Sutinen Road**
**ERFO 9 - Payne Road**

Dated ..... and which is an integral part of the Bid Form.

The following is a list of suppliers coordinated by us. Changes shall not be made subsequent to the Bid unless the change(s) are approved by the Owner.

| WORK SUBJECT | MANUFACTURER/ SUPPLIER NAME |
|---|---|
| 23A Aggregate | |
| | |
| | |
| | |
| | |
| | |
| | |

# BID BOND (PENAL SUM FORM)

| **Bidder** | **Surety** |
|---|---|
| Name: | Name: |
| Address *(principal place of business)*: | Address *(principal place of business)*: |
| **Owner** | **Bid** |
| Name: Baraga County Road Commission | Project *(name and location)*: |
| Address *(principal place of business)*: | Baraga County Road Commission |
| 18139 US-41<br>P.O. Box 217<br>L'Anse, MI 49946 | **ERFO 8 - Sutinen Road**<br>**ERFO 9 - Payne Road**<br><br>Bid Due Date: September 27, 2022 |
| **Bond** | |
| Penal Sum: | |
| Date of Bond: | |

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

| Bidder | Surety |
|---|---|
| _____ | _____ |
| *(Full formal name of Bidder)* | *(Full formal name of Surety) (corporate seal)* |
| By: _____ | By: _____ |
| *(Signature)* | *(Signature) (Attach Power of Attorney)* |
| Name: _____ | Name: _____ |
| *(Printed or typed)* | *(Printed or typed)* |
| Title: _____ | Title: _____ |
| Attest: _____ | Attest: _____ |
| *(Signature)* | *(Signature)* |
| Name: _____ | Name: _____ |
| *(Printed or typed)* | *(Printed or typed)* |
| Title: | Title: |

*Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.*


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1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
    3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
    3.2. All Bids are rejected by Owner, or
    3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.


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# CONTRACTING REQUIREMENTS

**NOTICE OF AWARD**

Date of Issuance:

| | | | |
|---|---|---|---|
| Owner: | Baraga County Road Commission | Owner's Project No.: | |
| Engineer: | U.P. Engineers & Architects, Inc. | Engineer's Project No.: | B10-00116 |
| Project: | ERFO 8 – Sutinen Road & ERFO 9 – Payne Road | | |
| Contract Name: | ERFO 8 – Sutinen Road & ERFO 9 – Payne Road | | |

Bidder:

Bidder's Address:

You are notified that Owner has accepted your Bid dated **[_____/_____/_____]** for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

Baraga County Road Commission – ERFO 8 – Sutinen Road & ERFO 9 – Payne Road

The Contract Price of the awarded Contract is $**[_____]**. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

(3) unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☐ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner (3) counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: Baraga County Road Commission

By *(signature)*: _____

Name *(printed)*: Douglas J. Mills, P.E.

Title: Engineer/Manager


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**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO AWARD is hereby acknowledged by _____

_____,

This, the _____ day of _____, 2022.

By _____

Title_____

Copy: Engineer


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# AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between Baraga County Road Commission ("Owner") and **[_____]** ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

**ARTICLE 1—WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: *Machine Grading, Aggregate surface course, and traffic control.*

**ARTICLE 2—THE PROJECT**

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Baraga County Road Commission: ERFO 8 - Sutinen Road and ERFO 9 - Payne Road

**ARTICLE 3—ENGINEER**

3.01 The Owner (Baraga County Road Commission) will assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

3.02 The part of the Project that pertains to the Work has been designed by the Baraga County Road Commission.

**ARTICLE 4—CONTRACT TIMES**

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Dates*

A. The Work will be substantially complete on or before the date below, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the date below.

| Location | Substantial Completion | Final Completion |
|---|---|---|
| ERFO 8 - Sutinen Road | July 15, 2023 | July 22, 2023 |
| ERFO 9 - Payne Road | July 15, 2023 | July 22, 2023 |

**EJCDC® C-520, Agreement between Owner and Contractor for Construction Contract (Stipulated Price).**
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4.03 ~~*Contract Times: Days*~~

~~A. The Work will be substantially complete within 30 days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 45 days after the date when the Contract Times commence to run.~~

~~4.04 *Milestones*~~

~~A. Parts of the Work must be substantially completed on or before the following Milestone(s):~~

~~1. Milestone 1 **[event & date/days]**~~

~~2. Milestone 2 **[event & date/days]**~~

~~3. Milestone 3 **[event & date/days]**~~

4.05 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion:* Contractor shall pay Owner $500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.

2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner $500.00 for each day that expires after such time until the Work is completed and ready for final payment.

~~3. *Milestones:* Contractor shall pay Owner $**[number]** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial Completion is reached, at which time the rate indicated in Paragraph 4.05.A.1 will apply, rather than the Milestone rate.~~

4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

C. ~~*Bonus:* Contractor and Owner further recognize the Owner will realize financial and other benefits if the Work is completed prior to the time specified for Substantial Completion. Accordingly, Owner and Contractor agree that as a bonus for early completion, Owner shall~~


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~~pay Contractor $**[number]** for each day prior to the time specified above for Substantial Completion (as duly adjusted pursuant to the Contract) that the Work is substantially complete. The maximum value of the bonus will be limited to $**[number]**.~~

~~4.06 *Special Damages*~~

~~A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.~~

~~B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.~~

~~C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.~~

**ARTICLE 5—CONTRACT PRICE**

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

A. For all Unit Price Work at the prices stated in the Contractor's Bid.

**ARTICLE 6—PAYMENT PROCEDURES**

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments based on the Contractor's Applications for Payment, which shall be submitted monthly, ~~on or about the __ day of each month during performance of the Work~~ **within 30 days of the Owner receiving funds** as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments


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previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.

a. 90 percent of the value of the Work completed (with the balance being retainage).

1) The Owner will retain 10% of the dollar value of all work completed until work is 50 percent complete, as determined by the Engineer and Owner. If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage. If the Owner determines that the Contractor is not making satisfactory progress, the Owner will continue to retain 10 percent of the value of Work completed when more than 50 percent of Work has been completed. The Owner shall have the option to submit any matters in dispute regarding the above allowed retainage to an agent pursuant to the provision of Act 524 of 1980, as amended being MCL 125.1564.

b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

A. All amounts not paid when due will bear interest at the rate of **maximum legal** percent per annum.

**ARTICLE 7—CONTRACT DOCUMENTS**

7.01 *Contents*

A. The Contract Documents consist of all of the following:

1. This Agreement.
2. Bonds:
    a. Performance bond (together with power of attorney).
    b. Payment bond (together with power of attorney).


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3. General Conditions.
4. Supplementary Conditions.
5. Specifications as listed in the table of contents of the project manual (copy of list attached).
6. Addenda (numbers **[___]** to **[_____]**, inclusive).
7. Exhibits to this Agreement (enumerated as follows):
    a. Contractor's Bid.
8. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    a. Notice to Proceed.
    b. Change Orders.

B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 7.

D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

**ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS**

8.01 *Contractor's Representations*

A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:

1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information


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and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published


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by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.


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IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on **[____/_____/_____]** (which is the Effective Date of the Contract).

| Owner: | Contractor: |
|---|---|
| Baraga County Road Commission | |
| *(typed or printed name of organization)* | *(typed or printed name of organization)* |
| By: | By: |
| *(individual's signature)* | *(individual's signature)* |
| Date: | Date: |
| *(date signed)* | *(date signed)* |
| Name: Douglas J. Mills, P.E. | Name: |
| *(typed or printed)* | *(typed or printed)* |
| Title: Engineer/Manager | Title: |
| *(typed or printed)* | *(typed or printed)* |
| | *(If **[Type of Entity]** is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)* |
| Attest: | Attest: |
| *(individual's signature)* | *(individual's signature)* |
| Title: | Title: |
| *(typed or printed)* | *(typed or printed)* |
| Address for giving notices: | Address for giving notices: |
| Baraga County Road Commission | |
| 18139 US-41, P.O. Box 217 | |
| L'Anse, MI 49946 | |
| Designated Representative: | Designated Representative: |
| Name: Douglas J. Mills, P.E. | Name: |
| *(typed or printed)* | *(typed or printed)* |
| Title: Engineer/Manager | Title: |
| *(typed or printed)* | *(typed or printed)* |
| Address: | Address: |
| Baraga County Road Commission | |
| 18139 US-41, P.O. Box 217 | |
| L'Anse, MI 49946 | |
| Phone: | Phone: |
| Email: | Email: |
| *(If **[Type of Entity]** is a corporation, attach evidence of authority to sign. If **[Type of Entity]** is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)* | License No.: *(where applicable)* |
| | State: |


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# NOTICE TO PROCEED

| | | | |
|---|---|---|---|
| Owner: | Baraga County Road Commission | Owner's Project No.: | |
| Engineer: | U.P. Engineers & Architects, Inc. | Engineer's Project No.: | B10-00116 |
| Contractor: | | Contractor's Project No.: | |
| Project: | ERFO 8 – Sutinen Road & ERFO 9 – Payne Road | | |
| Contract Name: | ERFO 8 – Sutinen Road & ERFO 9 – Payne Road | | |
| Effective Date of Contract: | | | |

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on **[_____]** pursuant to Paragraph 4.01 of the General Conditions.

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work will be done at the Site prior to such date.

In accordance with the Agreement:

The number of days to achieve Substantial Completion is in accordance with dates identified in Section 4 of the Agreement.

Before starting any Work at the Site, Contractor must comply with the following:

Contact Baraga County Road Commission, Engineer and those utilities affected by the work a minimum of three (3) full working days, excluding Saturdays, Sundays, and holidays, prior to the start of work.

| | |
|---|---|
| Owner: | Baraga County Road Commission |
| By *(signature)*: | |
| Name *(printed)*: | Douglas J. Mills, P.E. |
| Title: | Engineer/Manager |
| Date Issued: | |

Copy: Engineer

**EJCDC® C-550, Notice to Proceed.**
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# PERFORMANCE BOND

| **Contractor** | **Surety** |
|---|---|
| Name: | Name: |
| Address *(principal place of business)*: | Address *(principal place of business)*: |
| **Owner** | **Contract** |
| Name: Baraga County Road Commission | Description *(name and location)*: |
| Mailing address *(principal place of business)*: | Baraga County Road Commission<br>ERFO 8 - Sutinen Road<br>ERFO 9 - Payne Road |
| 18139 US-41, P.O. Box 217 | Contract Price: |
| L'Anse, MI 49946 | Effective Date of Contract: |

**Bond**

Bond Amount:

Date of Bond:

*(Date of Bond cannot be earlier than Effective Date of Contract)*

Modifications to this Bond form:

☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

| Contractor as Principal | Surety |
|---|---|
| _____ | _____ |
| *(Full formal name of Contractor)* | *(Full formal name of Surety) (corporate seal)* |
| By: _____ | By: _____ |
| *(Signature)* | *(Signature)(Attach Power of Attorney)* |
| Name: _____ | Name: _____ |
| *(Printed or typed)* | *(Printed or typed)* |
| Title: _____ | Title: _____ |
| Attest: _____ | Attest: _____ |
| *(Signature)* | *(Signature)* |
| Name: _____ | Name: _____ |
| *(Printed or typed)* | *(Printed or typed)* |
| Title: _____ | Title: _____ |

*Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.*


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1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:

    3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;

    3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

    3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

    5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

    5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

    5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

    5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:


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5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

   7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

   7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

   7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.

12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with


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said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

    14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

    14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

    14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

    14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

    14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.

16. Modifications to this Bond are as follows:


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# PAYMENT BOND

| **Contractor** | **Surety** |
|---|---|
| Name:<br>Address *(principal place of business)*: | Name:<br>Address *(principal place of business)*: |
| **Owner** | **Contract** |
| Name: Baraga County Road Commission<br>Mailing address *(principal place of business)*:<br>18139 US-41, P.O. Box 217<br>L'Anse, MI 49946 | Description *(name and location)*:<br>Baraga County Road Commission<br>ERFO 8 - Sutinen Road<br>ERFO 9 - Payne Road<br>Contract Price:<br>Effective Date of Contract: |

**Bond**

Bond Amount:

Date of Bond:

*(Date of Bond cannot be earlier than Effective Date of Contract)*

Modifications to this Bond form:

☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

| Contractor as Principal | Surety |
|---|---|
| _____<br>*(Full formal name of Contractor)* | _____<br>*(Full formal name of Surety) (corporate seal)* |
| By: _____<br>*(Signature)* | By: _____<br>*(Signature)(Attach Power of Attorney)* |
| Name: _____<br>*(Printed or typed)* | Name: _____<br>*(Printed or typed)* |
| Title: _____ | Title: _____ |
| Attest: _____<br>*(Signature)* | Attest: _____<br>*(Signature)* |
| Name: _____<br>*(Printed or typed)* | Name: _____<br>*(Printed or typed)* |
| Title: _____ | Title: _____ |

*Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.*


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1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.

4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.

5. The Surety's obligations to a Claimant under this Bond will arise after the following:

    5.1. Claimants who do not have a direct contract with the Contractor

        5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and

        5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).

    5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).

6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.

7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

    7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

    7.2. Pay or arrange for payment of any undisputed amounts.

    7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.


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8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.

9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.

14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

    16.1. *Claim*—A written statement by the Claimant including at a minimum:

        16.1.1. The name of the Claimant;

        16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;

        16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;

        16.1.4. A brief description of the labor, materials, or equipment furnished;


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16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;

16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;

16.1.7. The total amount of previous payments received by the Claimant; and

16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.

18. Modifications to this Bond are as follows:


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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

## ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.

3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

5. *Bidder*—An individual or entity that submits a Bid to Owner.

6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.

7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.

8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.

9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.

10. *Claim*

*a.* A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by


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Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.

b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.

c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.

*d.* A demand for money or services by a third party is not a Claim.

*11.* *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.

13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.

14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.

15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.

17. *Cost of the Work*—See Paragraph 13.01 for definition.

18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.

20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.

21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.

23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.

24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.

a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.

b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.

c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.

*25.* *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.

28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.

29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.

30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.

31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.


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32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.

34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.

36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.

39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.

42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work.

43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.

44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.

45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

46. *Technical Data*

    a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.

    b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.

    c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.

47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.

48. *Unit Price Work*—Work to be paid for on the basis of unit prices.

49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.


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50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 *Terminology*

A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day*: The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*: The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

1. does not conform to the Contract Documents;

2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

3. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).

E. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.


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4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

F. *Contract Price or Contract Times*: References to a change in "Contract Price or Contract Times" or "Contract Times or Contract Price" or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term "or both" is not expressed.

G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

**ARTICLE 2—PRELIMINARY MATTERS**

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).

B. *Evidence of Contractor's Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.

C. *Evidence of Owner's Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.

B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.


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2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;

2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.


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2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.

B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.

C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

**ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

G. Nothing in the Contract Documents creates:

1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or

2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.


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3.02 *Reference Standards*

A. *Standards Specifications, Codes, Laws and Regulations*

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.


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**ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

4.01 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

4.03 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.

B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.


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C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;

2. Abnormal weather conditions;

3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and

4. Acts of war or terrorism.

D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:

1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.

2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.

3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.

E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:

1. The circumstances that form the basis for the requested adjustment;

2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;

3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;

4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and

5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the


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effect of the delay, disruption, or interference on the critical path to completion of the Work.

F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.

G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

**ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

5.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise;


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(b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*: The Supplementary Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;

2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and

3. Technical Data contained in such reports and drawings.

B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

C. *Reliance by Contractor on Technical Data*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.


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D. *Limitations of Other Data and Documents*: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
2. is of such a nature as to require a change in the Drawings or Specifications;
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement


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to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

E. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
   a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
   b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
   c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
   a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
   b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
   c. Contractor failed to give the written notice required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

F. *Underground Facilities; Hazardous Environmental Conditions*: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities.


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Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:

1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
2. complying with applicable state and local utility damage prevention Laws and Regulations;
3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.

C. *Engineer's Review*: Engineer will:

1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
   a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
   b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
   c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*: The Supplementary Conditions identify:

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;


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2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and

3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.


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F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.

H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.


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**ARTICLE 6—BONDS AND INSURANCE**

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.

B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.

C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.

E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.

F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.

H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the


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required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.

D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.

E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.

F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

H. Contractor shall require:

1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and


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2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.

I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.

K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.

L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.

M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.

N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

A. *Required Insurance*: Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.

B. *General Provisions*: The policies of insurance required by this Paragraph 6.03 as supplemented must:

1. include at least the specific coverages required;

2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;

3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;


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4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and

5. include all necessary endorsements to support the stated requirements.

C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:

1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;

2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;

3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);

4. not seek contribution from insurance maintained by the additional insured; and

5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

6.04 *Builder's Risk and Other Property Insurance*

A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.

B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.

C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.


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D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.

E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.

1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.

2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.


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1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.

C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.

D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

## ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at


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Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.

B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.

C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.


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7.05 *"Or Equals"*

A. *Contractor's Request; Governing Criteria*: Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:

   a. in the exercise of reasonable judgment Engineer determines that the proposed item:

      1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

      2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

      3) has a proven record of performance and availability of responsive service; and

      4) is not objectionable to Owner.

   b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:

      1) there will be no increase in cost to the Owner or increase in Contract Times; and

      2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.


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E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 *Substitutes*

A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:

a. will certify that the proposed substitute item will:

1) perform adequately the functions and achieve the results called for by the general design;

2) be similar in substance to the item specified; and

3) be suited to the same use as the item specified.

b. will state:

1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;

2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and

3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

c. will identify:

1) all variations of the proposed substitute item from the item specified; and

2) available engineering, sales, maintenance, repair, and replacement services.

d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in


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Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.

B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or


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otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.

E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.

F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.

J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.

K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.

L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.

M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any


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license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.

B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.09 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.10 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.11 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to


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such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.

C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.12 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.

B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.

C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any


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of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.

F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.

H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).

J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.


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7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

1. Before submitting a Shop Drawing or Sample, Contractor shall:

a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determine and verify:

1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;

2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;

c. confirm that the Submittal is complete with respect to all related data included in the Submittal.

2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.

3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.

B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

1. *Shop Drawings*

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. *Samples*

a. Contractor shall submit the number of Samples required in the Specifications.

b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.

5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. *Resubmittal Procedures for Shop Drawings and Samples*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.

2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two


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resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

E. *Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:

a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.

b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.

c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.

d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.

2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03. 2.04, and 2.05.

F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.

B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:

1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and


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2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.

C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or

2. normal wear and tear under normal usage.

D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:

1. Observations by Engineer;

2. Recommendation by Engineer or payment by Owner of any progress or final payment;

3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. Use or occupancy of the Work or any part thereof by Owner;

5. Any review and approval of a Shop Drawing or Sample submittal;

6. The issuance of a notice of acceptability by Engineer;

7. The end of the correction period established in Paragraph 15.08;

8. Any inspection, test, or approval by others; or

9. Any correction of defective Work by Owner.

E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity


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directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.

B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 *Delegation of Professional Design Services*

A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.

B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.

C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.

E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:

1. Checking for conformance with the requirements of this Paragraph 7.19;
2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.

F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.


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G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

## ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.

D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be


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set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:

1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
2. An itemization of the specific matters to be covered by such authority and responsibility; and
3. The extent of such authority and responsibilities.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.

1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.


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C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

9.03 *Furnish Data*

A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.


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9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

**ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION**

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.


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B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Resident Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.

B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

A. Engineer has the authority to reject Work in accordance with Article 14.

B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.

C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.

D. Engineer's authority as to changes in the Work is set forth in Article 11.

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.06 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.07 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any


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Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

**ARTICLE 11—CHANGES TO THE CONTRACT**

11.01 *Amending and Supplementing the Contract*

A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.

C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

11.02 *Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;


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3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and

4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.

B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 *Work Change Directives*

A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

B. If Owner has issued a Work Change Directive and:

1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.

2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.

B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving


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the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.

B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.

C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);

2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or

3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:

1. A mutually acceptable fixed fee; or

2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;

b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;


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c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;

d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;

e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and

f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.

B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 *Change Proposals*

A. *Purpose and Content*: Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.


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B. *Change Proposal Procedures*

1. *Submittal*: Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data*: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
    a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
    b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

    The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.
3. *Engineer's Initial Review*: Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal*: Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

C. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.


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11.10 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

**ARTICLE 12—CLAIMS**

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal


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and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

**ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

13.01 *Cost of the Work*

A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:

1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or

2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe


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benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.

5. Other costs consisting of the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

c. *Construction Equipment Rental*

1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment,


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machinery, or parts must cease when the use thereof is no longer necessary for the Work.

2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.

3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded*: The term Cost of the Work does not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.


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2. The cost of purchasing, renting, or furnishing small tools and hand tools.

3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

6. Expenses incurred in preparing and advancing Claims.

7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*

1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:

a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.

b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:

1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.

2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.

2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.


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13.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.

C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. *Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:

a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and


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b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.

2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.

3. Adjusted unit prices will apply to all units of that item.

**ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK**

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;

2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;

3. by manufacturers of equipment furnished under the Contract Documents;

4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and


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5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.

B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.

C. *Notice of Defects*: Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved


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by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then


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Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

**ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD**

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

B. *Applications for Payments*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.

2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.


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3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

   a. the Work has progressed to the point indicated;

   b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

   c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

   a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

   b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

   a. to supervise, direct, or control the Work;

   b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;


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c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;

d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or

e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

a. the Work is defective, requiring correction or replacement;

b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Contractor has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;


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e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

f. The Work is defective, requiring correction or replacement;

g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

h. The Contract Price has been reduced by Change Orders;

i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;

j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or

l. Other items entitle Owner to a set-off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.


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C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.


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2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.

2. The final Application for Payment must be accompanied (except as previously delivered) by:

a. all documentation called for in the Contract Documents;

b. consent of the surety, if any, to final payment;

c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

d. a list of all duly pending Change Proposals and Claims; and

e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment


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bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Final Application and Recommendation of Payment*: If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Notice of Acceptability*: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.

D. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.

E. *Final Payment Becomes Due*: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.


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15.08 *Correction Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:

1. correct the defective repairs to the Site or such adjacent areas;
2. correct such defective Work;
3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.

B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.

C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.

D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.


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**ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);

2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;

3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or

4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and

2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as


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to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.


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**ARTICLE 17—FINAL RESOLUTION OF DISPUTES**

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and

2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;

2. agree with the other party to submit the dispute to another dispute resolution process; or

3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

**ARTICLE 18—MISCELLANEOUS**

18.01 *Giving Notice*

A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:

1. in person, by a commercial courier service or otherwise, to the recipient's place of business;

2. by registered or certified mail, postage prepaid, to the recipient's place of business; or

3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Assignment of Contract*

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.


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# SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

**Prepared By**

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ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

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# SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

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# SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

**ARTICLE 1—DEFINITIONS AND TERMINOLOGY**

~~No suggested Supplementary Conditions in this Article.~~

**SC-1.01.A.8 – Add the following at the end of the Paragraph:**

**The Change Order form to be used on this Project is EJCDC C-941 (2018). Agency approval is required before Change Orders are effective.**

**SC-1.01.A.50 – Add the following at the end of the Paragraph:**

**The Work Change Directive form to be used on this Project is EJCDC C-940 (2018). Agency approval is required before a Work Change Directive is issued. A Work Change Directive cannot change Contract Price or Contract Times without a subsequent Change Order.**

**SC-1.01.A.51 – Add the following new paragraph immediately after Paragraph 1.01.A.50:**

**51. Agency - The Project is financed in part by the Bureau of Indian Affairs (BIA) and Keweenaw Bay Indian Community.**

**ARTICLE 2—PRELIMINARY MATTERS**

2.01 *Delivery of Bonds and Evidence of Insurance*

SC-2.01 Delete Paragraphs 2.01.B. and C. in their entirety and insert the following in their place:

B. *Evidence of Contractor's Insurance:* When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of the policies (including all endorsements, and identification of applicable self-insured retentions and deductibles) of insurance required to be provided by Contractor in this Contract. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

C. *Evidence of Owner's Insurance:* After receipt from Contractor of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor copies of the policies of insurance to be provided by Owner in this Contract (if any). Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

2.02 *Copies of Documents*

SC-2.02 Amend the first sentence of Paragraph 2.02.A. to read as follows:

Owner shall furnish to Contractor (**three)** printed copies of the Contract Documents (including one fully signed counterpart of the Agreement).

SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:

A. Owner shall furnish to Contractor **three** printed copies of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of


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the conformed Contract Documents will be furnished upon request at the cost of reproduction.

2.06 *Electronic Transmittals*

SC-2.06 Delete Paragraphs 2.06.B and 2.06.C in their entirety and insert the following in their place:

B. *Electronic Documents Protocol:* The parties shall conform to the following provisions in Paragraphs 2.06.B and 2.06.C, together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals.

1. *Basic Requirements*

a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents in an electronic or digital format using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Contract.

b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.

c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Contract Documents.

d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between a party and any third party for any portion of the Work on the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with a party or with Engineer. Nothing herein will modify the requirements of the Contract regarding communications between and among the parties and their subcontractors and consultants.

e. When transmitting Electronic Documents, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.

f. Nothing herein negates any obligation 1) in the Contract to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; 2) to comply with any applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or 3) to comply with the notice requirements of Paragraph 18.01 of the General Conditions.

2. *System Infrastructure for Electronic Document Exchange*

a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of


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minimum standards set forth in this EDP, and any explicit system requirements specified by attachment to this EDP, it is the obligation of each party to determine, for itself, its own System Infrastructure.

1) The maximum size of an email attachment for exchange of Electronic Documents under this EDP is 25 MB. Attachments larger than that may be exchanged using large file transfer functions or physical media.

2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.

b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.

c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it shall not be liable to the other party for any breach of system security.

d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties shall cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Contractor, not reasonably anticipated under the original EDP, Contractor may seek an adjustment in price or time under the appropriate process in the Contract.

e. Each party is responsible for its own back-up and archive of documents sent and received during the term of the contract under this EDP, unless this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the parties may rely for document archiving during the specified term of operation of such Project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of Project documents after the term of the Contract, or after termination of the Project document archive, if one is established, for as long as required by the Contract and as each party deems necessary for its own purposes.


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f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.

g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

h. The Owner will operate a Project information management system (also referred to in this EDP as "Project Website") for use of Owner, Engineer and Contractor during the Project for exchange and storage of Project-related communications and information. Except as otherwise provided in this EDP or the General Conditions, use of the Project Website by the parties as described in this Paragraph will be mandatory for exchange of Project documents, communications, submittals, and other Project-related information. The following conditions and standards will govern use of the Project Website:

1) Describe the period of time during which the Project Website will be operated and be available for reliance by the parties;

2) Provide any minimum system infrastructure, software licensing and security standards for access to and use of the Project Website;

3) Describe the types and extent of services to be provided at the Project Website (such as large file transfer, email, communication and document archives, etc.); and

4) Include any other Project Website attributes that may be pertinent to Contractor's use of the facility and pricing of such use.

C. *Software Requirements for Electronic Document Exchange; Limitations*

1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.

a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.

2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.

3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in Exhibit A to this EDP, including software versions, if listed.


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SC-2.06 Supplement Paragraph 2.06 of the General Conditions by adding the following paragraph:

D. *Requests by Contractor for Electronic Documents in Other Formats*

1. Release of any Electronic Document versions of the Project documents in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be at the sole discretion of the Owner.

2. To extent determined by Owner, in its sole discretion, to be prudent and necessary, release of Electronic Documents versions of Project documents and other Project information requested by Contractor ("Request") in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be subject to the provisions of the Owner's response to the Request, and to the following conditions to which Contractor agrees:

a. The content included in the Electronic Documents created by Engineer and covered by the Request was prepared by Engineer as an internal working document for Engineer's purposes solely, and is being provided to Contractor on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, Contractor is advised and acknowledges that the content may not be suitable for Contractor's application, or may require substantial modification and independent verification by Contractor. The content may include limited resolution of models, not-to-scale schematic representations and symbols, use of notes to convey design concepts in lieu of accurate graphics, approximations, graphical simplifications, undocumented intermediate revisions, and other devices that may affect subsequent reuse.

b. Electronic Documents containing text, graphics, metadata, or other types of data that are provided by Engineer to Contractor under the request are only for convenience of Contractor. Any conclusion or information obtained or derived from such data will be at the Contractor's sole risk and the Contractor waives any claims against Engineer or Owner arising from use of data in Electronic Documents covered by the Request.

c. Contractor shall indemnify and hold harmless Owner and Engineer and their subconsultants from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from Contractor's use, adaptation, or distribution of any Electronic Documents provided under the Request.

d. Contractor agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the Request and is limited to Contractor's subcontractors. Contractor warrants that subsequent use by Contractor's subcontractors complies with all terms of the Contract Documents and Owner's response to Request.

3. In the event that Owner elects to provide or directs the Engineer to provide to Contractor any Contractor-requested Electronic Document versions of Project information that is not explicitly identified in the Contract Documents as being


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available to Contractor, the Owner shall be reimbursed by Contractor on an hourly basis (at $100 per hour) for any engineering costs necessary to create or otherwise prepare the data in a manner deemed appropriate by Engineer.

**ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE**

3.01 *Intent*

SC-3.01 Delete Paragraph 3.01.C in its entirety.

**ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK**

~~**SC-4.01.A – Delete the last sentence of paragraph.**~~

4.05 *Delays in Contractor's Progress*

SC-4.05 Amend Paragraph 4.05.C by adding the following subparagraphs:

5. *Weather-Related Delays*

~~a. If "abnormal weather conditions" as set forth in Paragraph 4.05.C.2 of the General Conditions are the basis for a request for an equitable adjustment in the Contract Times, such request must be documented by data substantiating each of the following: 1) that weather conditions were abnormal for the period of time in which the delay occurred, 2) that such weather conditions could not have been reasonably anticipated, and 3) that such weather conditions had an adverse effect on the Work as scheduled. **Extreme or unusual weather that is typical for a given region, elevation, or season should not be considered abnormal weather conditions. Requests for time extensions due to abnormal weather conditions will be submitted to the Engineer within five days of the end of the abnormal weather condition event. It is the responsibility of the Contractor to provide the information listed in SC 4.05.C.5.b.**~~

b. Should the Contractor wish to claim a delay due to adverse weather, it is the Contractor's responsibility to provide adequate documentation for the claim.

c. **Weather related delays shall be addressed per Section 108.08 of the 2020 MDOT Standard Specifications for Construction.**

~~b. The existence of abnormal weather conditions will be determined on a month-by-month basis in accordance with the following:~~

~~1) Every workday on which one or more of the following conditions exist will be considered a "bad weather day":~~

~~i) Total precipitation (as rain equivalent) occurring between 7:00 p.m. on the preceding day (regardless of whether such preceding day is a workday) through 7:00 p.m. on the workday in question equals or exceeds **[threshold precipitation quantity]** of precipitation (as rain equivalent, based on the snow/rain conversion indicated in the table entitled Foreseeable Bad Weather Days; such table is hereby incorporated in this SC 4.05.C by reference.~~


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ii) Ambient outdoor air temperature at 11:00 a.m. is equal to or less than the following low temperature threshold: **[temperature]** degrees Fahrenheit; or, at 3:00 p.m. the ambient outdoor temperature is equal to or greater than the following high temperature threshold: **[temperature]** degrees Fahrenheit.

2) Determination of actual bad weather days during performance of the Work will be based on the weather records measured and recorded by **[name of the entity operating the weather station]** weather monitoring station at **[location of the weather monitoring station]**.

3) Contractor shall anticipate the number of foreseeable bad weather days per month indicated in the table in Exhibit **[exhibit number]**—Foreseeable Bad Weather Days.

4) In each month, every bad weather day exceeding the number of foreseeable bad weather days established in the table in Exhibit **[exhibit number]**—Foreseeable Bad Weather Days will be considered as "abnormal weather conditions." The existence of abnormal weather conditions will not relieve Contractor of the obligation to demonstrate and document that delays caused by abnormal weather are specific to the planned work activities or that such activities thus delayed were on Contractor's then-current Progress Schedule's critical path for the Project.

## ARTICLE 5—SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS

5.03 *Subsurface and Physical Conditions*

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.D:

E. The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely: **[If there are no such reports, so indicate in the table.]**

| Report Title | Date of Report | Technical Data |
|---|---|---|
| | | **None.** |
| | | |
| | | |

F. The following table lists the drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data, and specifically identifies the Technical Data upon which Contractor may rely: **[If there are no such drawings, so indicate in the table.]**

| Drawings Title | Date of Drawings | Technical Data |
|---|---|---|
| | | **None.** |
| | | |
| | | |


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G. Contractor may examine copies of reports and drawings identified in SC-5.03.E and SC-5.03.F that were not included with the Bidding Documents at **[location]** during regular business hours, or may request copies from Engineer.

5.06 *Hazardous Environmental Conditions*

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.A.3:

4. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may rely: **[If there are no such reports, so indicate in the table]**

| Report Title | Date of Report | Technical Data |
|---|---|---|
| | | **None.** |
| | | |
| | | |

5. The following table lists the drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may rely: **[If there are no such drawings, so indicate in the table]**

| Drawings Title | Date of Drawings | Technical Data |
|---|---|---|
| | | **None.** |
| | | |
| | | |

**ARTICLE 6—BONDS AND INSURANCE**

6.01 *Performance, Payment, and Other Bonds*

SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.A:

1. *Required Performance Bond Form:* The performance bond that Contractor furnishes will be in the form of EJCDC® C-610, Performance Bond (2010, 2013, or 2018 edition).

2. *Required Payment Bond Form:* The payment bond that Contractor furnishes will be in the form of EJCDC® C-615, Payment Bond (2010, 2013, or 2018 edition).

~~SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.B:~~

~~1. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be **[number—either 2, 3, or other]** years after Substantial Completion.~~

~~2. After Substantial Completion, Contractor shall furnish a warranty bond issued in the form of EJCDC® C-612, Warranty Bond (2018). The warranty bond must be in a bond amount of **[number—either 10, 15, or other]** percent of the final Contract Price. The warranty bond period will extend to a date **[number—either 2, 3, or other]** years after Substantial Completion of the Work. Contractor shall deliver the fully executed warranty bond to Owner prior to or with the final application for payment, and in any event no later than 11 months after Substantial Completion.~~


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~~3. The warranty bond must be issued by the same surety that issues the performance bond required under Paragraph 6.01.A of the General Conditions.~~

6.02 *Insurance—General Provisions*

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.B:

1. Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the Project is located, (b) is certified or authorized as a worker's compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.H.2 of the General Conditions:

3. For the following Subcontractors, Suppliers, or categories of Subcontractor or Supplier, Contractor shall require the following specified insurance, with policy limits as stated: **[Identify Subcontractors, Suppliers, or categories of same, and insert specific insurance requirements and policy limits]**

6.03 *Contractor's Insurance*

SC-6.03 Supplement Paragraph 6.03 with the following provisions after Paragraph 6.03.C:

D. *Other Additional Insureds:* As a supplement to the provisions of Paragraph 6.03.C of the General Conditions, the commercial general liability, automobile liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies must include as additional insureds (in addition to Owner and Engineer) the following:

**Keweenaw Bay Indian Community, its officers, agents, and employees**

**Bureau of Indian Affairs, its officers, agents, and employees**

**Baraga County Road Commission, its officers, agents, and employees**

**U.P. Engineers & Architects, Inc., its officers, agents, and employees**

E. *Workers' Compensation and Employer's Liability:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance, including, as applicable, United States Longshoreman and Harbor Workers' Compensation Act, Jones Act, stop-gap employer's liability coverage for monopolistic states, and foreign voluntary workers' compensation (from available sources, notwithstanding the jurisdictional requirement of Paragraph 6.02.B of the General Conditions).

| Workers' Compensation and Related Policies | Policy limits of not less than: |
|---|---|
| **Workers' Compensation** | |
| State | Statutory |
| Applicable Federal (e.g., Longshoreman's) | Statutory |
| Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable | Statutory |
| **Jones Act (if applicable)** | |
| Bodily injury by accident—each accident | $1,000,000 |


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| Workers' Compensation and Related Policies | Policy limits of not less than: |
|---|---|
| Bodily injury by disease—aggregate | $1,000,000 |
| **Employer's Liability** | |
| Each accident | $1,000,000 |
| Each employee | $1,000,000 |
| Policy limit | $1,000,000 |
| **Stop-gap Liability Coverage** | |
| For work performed in monopolistic states, stop-gap liability coverage must be endorsed to either the worker's compensation or commercial general liability policy with a minimum limit of: | $1,000,000 |

F. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against claims for:

1. damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees,
2. damages insured by reasonably available personal injury liability coverage, and
3. damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

G. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy must be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage.
    a. Such insurance must be maintained for three years after final payment.
    b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
2. Blanket contractual liability coverage, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Severability of interests and no insured-versus-insured or cross-liability exclusions.
4. Underground, explosion, and collapse coverage.
5. Personal injury coverage.
6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
7. For design professional additional insureds, ISO Endorsement CG 20 32 07 04 "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.


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H. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:

1. Any modification of the standard definition of "insured contract" (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
2. Any exclusion for water intrusion or water damage.
3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
4. Any exclusion of coverage relating to earth subsidence or movement.
5. Any exclusion for the insured's vicarious liability, strict liability, or statutory liability (other than worker's compensation).
6. Any limitation or exclusion based on the nature of Contractor's work.
7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.

I. *Commercial General Liability—Minimum Policy Limits*

| **Commercial General Liability** | **Policy limits of not less than:** |
|---|---|
| General Aggregate | $3,000,000 |
| Products—Completed Operations Aggregate | $3,000,000 |
| Personal and Advertising Injury | $2,000,000 |
| Bodily Injury and Property Damage—Each Occurrence | $2,000,000 |

J. *Automobile Liability:* Contractor shall purchase and maintain automobile liability insurance for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy must be written on an occurrence basis.

| **Automobile Liability** | **Policy limits of not less than:** |
|---|---|
| **Bodily Injury** | |
| Each Person | $500,000 |
| Each Accident | $500,000 |
| **Property Damage** | |
| Each Accident | $500,000 |
| **[or]** | |
| **Combined Single Limit** | |
| Combined Single Limit (Bodily Injury and Property Damage) | $1,000,000 |

K. *Umbrella or Excess Liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the Paragraphs above. The


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coverage afforded must be at least as broad as that of each and every one of the underlying policies.

| Excess or Umbrella Liability | Policy limits of not less than: |
|---|---|
| Each Occurrence | $2,000,000 |
| General Aggregate | $2,000,000 |

L. ~~*Using Umbrella or Excess Liability Insurance to Meet CGL and Other Policy Limit Requirements:* Contractor may meet the policy limits specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policy's policy limits and partial attribution of the policy limits of an umbrella or excess liability policy that is at least as broad in coverage as that of the underlying policy, as specified herein. If such umbrella or excess liability policy was required under this Contract, at a specified minimum policy limit, such umbrella or excess policy must retain a minimum limit of $**[specify amount]** after accounting for partial attribution of its limits to underlying policies, as allowed above.~~

M. ~~*Contractor's Pollution Liability Insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage, including cleanup costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance must be maintained for no less than three years after final completion.~~

| ~~**Contractor's Pollution Liability**~~ | ~~**Policy limits of not less than:**~~ |
|---|---|
| ~~Each Occurrence/Claim~~ | ~~$~~ |
| ~~General Aggregate~~ | ~~$~~ |

N. ~~*Contractor's Professional Liability Insurance:* If Contractor will provide or furnish professional services under this *Contract*, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance must cover negligent acts, errors, or omissions in the performance of professional design or related services by the insured or others for whom the insured is legally liable. The insurance must be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. The retroactive date on the policy must pre-date the commencement of furnishing services on the Project.~~

| ~~**Contractor's Professional Liability**~~ | ~~**Policy limits of not less than:**~~ |
|---|---|
| ~~Each Claim~~ | ~~$~~ |
| ~~Annual Aggregate~~ | ~~$~~ |

O. ~~*Railroad Protective Liability Insurance:* Prior to commencing any Work within 50 feet of railroad-owned and controlled property, Contractor shall (1) endorse its commercial general liability policy with ISO CG 24 17, removing the contractual liability exclusion for work within 50 feet of a railroad, (2) purchase and maintain railroad protective liability insurance meeting the following requirements, (3) furnish a copy of the endorsement to~~


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Owner, and (4) submit a copy of the railroad protective policy and other railroad-required documentation to the railroad, and notify Owner of such submittal.

**[Insert additional specific requirements, commonly set by the railroad, here.]**

| **Railroad Protective Liability Insurance** | **Policy limits of not less than:** |
|---|---|
| Each Claim | $ |
| Aggregate | $ |

P. *Unmanned Aerial Vehicle Liability Insurance:* If Contractor uses unmanned aerial vehicles (UAV—commonly *referred* to as drones) at the Site or in support of any aspect of the Work, Contractor shall obtain UAV liability insurance in the amounts stated; name Owner, Engineer, and all individuals and entities identified in the Supplementary Conditions as additional insureds; and provide a certificate to Owner confirming Contractor's compliance with this requirement. Such insurance will provide coverage for property damage, bodily injury or death, and invasion of privacy.

| **Unmanned Aerial Vehicle Liability Insurance** | **Policy limits of not less than:** |
|---|---|
| Each Claim | $ |
| General Aggregate | $ |

Q. *Other Required Insurance:* **None.**

6.04 *Builder's Risk and Other Property Insurance*

SC-6.04 Delete Paragraph 6.04.A and insert the following in its place:

A. Owner shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provisions:

F. *Builder's Risk Requirements:* The builder's risk insurance must:

1. be written on a builder's risk "all risk" policy form that at a minimum includes insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment stored and in transit, and must not exclude the coverage of the following risks: fire; windstorm; hail; flood; earthquake, volcanic activity, and other earth movement; lightning; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; and water damage (other than that caused by flood).


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a. Such policy will include an exception that results in coverage for ensuing losses from physical damage or loss with respect to any defective workmanship, methods, design, or materials exclusions.

b. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake, volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance will be provided through other insurance policies acceptable to Owner and Contractor.

2. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.

3. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of contractors, engineers, and architects).

4. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier). If this coverage is subject to a sublimit, such sublimit will be a minimum of $**[amount]**.

5. extend to cover damage or loss to insured property while in transit. If this coverage is subject to a sublimit, such sublimit will be a minimum of $**[amount]**.

6. allow for the waiver of the insurer's subrogation rights, as set forth in this Contract.

7. allow for partial occupancy or use by Owner by endorsement, and without cancellation or lapse of coverage.

8. include performance/hot testing and start-up, if applicable.

9. be maintained in effect until the Work is complete, as set forth in Paragraph 15.06.D of the General Conditions, or until written confirmation of Owner's procurement of property insurance following Substantial Completion, whichever occurs first.

10 include as named insureds the Owner, Contractor, Subcontractors (of every tier), and any other individuals or entities required by this Contract to be insured under such builder's risk policy. For purposes of Paragraphs 6.04, 6.05, and 6.06 of the General Conditions, and this and all other corresponding Supplementary Conditions, the parties required to be insured will be referred to collectively as "insureds." In addition to Owner, Contractor, and Subcontractors of every tier, include as insureds the following:

a. **[Here list by legal name (not category, role, or classification) other persons or entities to be included on the builder's risk policy as named insureds. It is**


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~~**generally recommended to list the insured's full legal/contractual name, address, contact person, telephone, and e-mail address. Include only persons or entities that have property at the Site that is to be insured by the builder's risk insurance. If applicable, separately identify any mortgagee or lender required to be named as a loss payee.]**~~

~~11. include, in addition to the Contract Price amount, the value of the following equipment and materials to be installed by the Contractor but furnished by the Owner or third parties:~~

~~a. **[Here list or provide cross-reference to specific items of Owner-furnished (or third-party furnished) equipment, and purchase value; do not list items whose value is already included in the Contract Price.]**~~

~~12. If debris removal in connection with repair or replacement of insured property is subject to a coverage sublimit, such sublimit will be a minimum of $**[amount]**.~~

~~13. In addition to the coverage sublimits stated above, the following coverages are also subject to sublimits, as follows:~~

~~a. **[Here list a specific coverage, or cause of loss, that has been determined to be likely to be subject to a sublimit. If not applicable, then delete Paragraph SC-6.04.F.13 in its entirety.]** If this coverage is subject to a sublimit, such sublimit will be a minimum of $**[amount]**.~~

~~SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provision:~~

~~G. *Coverage for Completion Delays:* The builder's risk policy will include, for the benefit of Owner, loss of revenue and soft cost coverage for losses arising from delays in completion that result from covered physical losses or damage. Such coverage will include, without limitation, fixed expenses and debt service for a minimum of 12 months with a maximum deductible of 30 days, compensation for loss of net revenues, rental costs, and attorneys' fees and engineering or other consultants' fees, if not otherwise covered.~~

~~SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provisions:~~

~~H. *Builder's Risk and Other Property Insurance Deductibles:* The purchaser of any required builder's risk, installation floater, or other property insurance will be responsible for costs not covered because of the application of a policy deductible.~~

~~1. The builder's risk policy (or if applicable the installation floater) will be subject to a deductible amount of no more than $**[number]** for direct physical loss in any one occurrence.~~

SC-6.04 Delete Paragraph 6.04.A of the General Conditions and substitute the following in its place:

A. *Installation Floater*

1. Contractor shall provide and maintain installation floater insurance on a broad form or "all risk" policy providing coverage for materials, supplies, machinery, fixtures, and equipment that will be incorporated into the Work ("Covered Property"). Coverage under the Contractor's installation floater will include loss from covered "all risk" causes (perils) to Covered Property:


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a. of the Contractor, and Covered Property of others that is in Contractor's care, custody, and control;

b. while in transit to the Site, including while at temporary storage sites;

c. while at the Site awaiting and during installation, erection, and testing;

d. continuing at least until the installation or erection of the Covered Property is completed, and the Work into which it is incorporated is accepted by Owner.

2. The installation floater coverage cannot be contingent on an external cause or risk, or limited to property for which the Contractor is legally liable.

3. The installation floater coverage will be in an amount sufficient to protect Contractor's interest in the Covered Property. The Contractor will be solely responsible for any deductible carried under this coverage.

4. This policy will include a waiver of subrogation applicable to Owner, Contractor, Engineer, all Subcontractors, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them.

**ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES**

7.03 *Labor; Working Hours*

SC-7.03 Add the following new subparagraphs immediately after Paragraph 7.03.C:

1. Regular working hours will be **7:00 a.m. through 7:00 p.m.**

2. Owner's legal holidays are **Memorial Day, Independence Day, and Labor Day**.

SC-7.03 Amend the first and second sentences of Paragraph 7.03.C to state "…all Work at the Site must be performed during regular working hours, **Monday** through **Saturday**. Contractor will not perform Work on a **Sunday,** or any legal holiday."

~~SC-7.03 Delete Paragraph 7.03.C in its entirety, and insert the following:~~

~~C. In the absence of any Laws or Regulations to the contrary, Contractor may perform the Work on holidays, during any or all hours of the day, and on any or all days of the week, at Contractor's sole discretion.~~

~~SC-7.03 Add the following new paragraph immediately after Paragraph 7.03.C:~~

~~D. **[Contractor] [Owner] [choose one and delete the other]** shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.~~

~~SC-7.03 Add the following new subparagraph immediately after Paragraph SC-7.03.D:~~

~~1. For purposes of administering the foregoing requirement, additional overtime costs are defined as **[Here insert parameters for compensated overtime hours]**.~~

**SC-7.05.A – Amend the third sentence of paragraph by striking out the following words:**


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**Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item is permitted,**

**SC-7.05.A.1.a.3 – Amend the last sentence of Paragraph a.3 by striking out "and;" and adding a period at the end of Paragraph a.3.**

**SC-7.05.A.1.a.4 – Delete paragraph in its entirety and insert "Deleted."**

**SC-7.06.A.3.a.2 – Remove "and" from the end of paragraph.**

**SC-7.06.A.3.a.3 – Add "; and" to the end of paragraph.**

**SC-7.07.A – Amend by adding the following to the end of the paragraph:**

**The total amount of work subcontracted by the Contractor shall not exceed fifty percent of the Contract price without prior approval from the Owner, Engineer and Agency.**

**SC-7.07.B – Delete paragraph in its entirety and insert "Deleted".**

**SC-7.07.E – Delete the second sentence of paragraph and insert the following in its place:**

**Owner may not require that Contractor use a specific replacement.**

7.10 *Taxes*

~~SC-7.10 Add a new paragraph immediately after Paragraph 7.10.A:~~

~~A. Owner is exempt from payment of sales and compensating use taxes of the State of **[name of state where Project is located]** and of cities and counties thereof on all materials to be incorporated into the Work.~~

~~1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.~~

~~2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.~~

**SC-7.12.A Amend paragraph by adding the following after "written interpretations and clarifications,":**

**Manufacturers' Certifications,**


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~~7.13 *Safety and Protection*~~

~~SC-7.13 Insert the following after the second sentence of Paragraph 7.13.G:~~

~~The following Owner safety programs are applicable to the Work: **[Here expressly identify by title and/or date, any such Owner safety programs. If Owner's safety programs are included in or addressed in the Specifications, SC-7.13 may be used to provide a cross-reference to the Specification section]**.~~

**ARTICLE 8—OTHER WORK AT THE SITE**

8.02 *Coordination*

~~SC-8.02 Add the following new Paragraph 8.02.C immediately after Paragraph 8.02.B:~~

~~C. Owner intends to contract with others for the performance of other work at or adjacent to the Site.~~

~~1. **[Here identify individual or entirety]** shall have authority and responsibility for coordination of the various contractors and work forces at the Site;~~

~~2. The following specific matters are to be covered by such authority and responsibility: **[Here itemize such matters]**;~~

~~3. The extent of such authority and responsibilities is: **[Here provide the extent]**.~~

**ARTICLE 9—OWNER'S RESPONSIBILITIES**

9.13 *Owner's Site Representative*

SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

9.13 *Owner's Site Representative*

A. Owner will furnish an "Owner's Site Representative" to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner's Site Representative is not Engineer's consultant, agent, or employee. Owner's Site Representative will be **an Employee of Baraga County Road Commission**. ~~The authority and responsibilities of Owner's Site Representative follow: **[Here describe the duties and activities of the Owner's Site Representative.]**~~

**ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION**

10.03 *Resident Project Representative*

SC-10.03 Add the following new subparagraph immediately after Paragraph 10.03.A:

1. On this Project, by agreement with the Owner, the Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work.


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SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.B:

C. The Resident Project Representative (RPR) will be Engineer's representative at the Site. RPR's dealings in matters pertaining to the Work in general will be with Engineer and Contractor. RPR's dealings with Subcontractors will only be through or with the full knowledge or approval of Contractor. The RPR will:

1. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

2. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.

3. *Liaison*

   a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.

   b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

   c. Assist in obtaining from Owner additional details or information, when required for Contractor's proper execution of the Work.

4. *Review of Work; Defective Work*

   a. Conduct on-Site observations of the Work to assist Engineer in determining, to the extent set forth in Paragraph 10.02, if the Work is in general proceeding in accordance with the Contract Documents.

   b. Observe whether any Work in place appears to be defective.

   c. Observe whether any Work in place should be uncovered for observation, or requires special testing, inspection or approval.

5. *Inspections and Tests*

   a. Observe Contractor-arranged inspections required by Laws and Regulations, including but not limited to those performed by public or other agencies having jurisdiction over the Work.

   b. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work.

6. *Payment Requests:* Review Applications for Payment with Contractor.

7. *Completion*

   a. Participate in Engineer's visits regarding Substantial Completion.

   b. Assist in the preparation of a punch list of items to be completed or corrected.


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c. Participate in Engineer's visit to the Site in the company of Owner and Contractor regarding completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

d. Observe whether items on the final punch list have been completed or corrected.

D. The RPR will not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.

3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.

4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction.

5 Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

7. Authorize Owner to occupy the Project in whole or in part.

**ARTICLE 11—CHANGES TO THE CONTRACT**

No suggested Supplementary Conditions in this Article.

**SC-11.02.C – Add new paragraph immediately after Paragraph 11.02.B:**

**C. The Engineer or Owner shall contact the Agency for concurrence on each Change Order prior to issuance. All Contract Change Orders must be concurred on (signed) by Agency before they are effective.**

**SC-11.03.A.2 - Add new Paragraph 11.03.A.2 immediately after Paragraph 11.03.A, which shall be renamed Paragraph 11.03.A.1:**

**2. The Engineer or Owner shall contact the Agency for concurrence on each Work Change Directive prior to issuance. Once authorized by Owner, a copy of each Work Change Directive shall be provided by Engineer to the Agency.**

**ARTICLE 12—CLAIMS**

No suggested Supplementary Conditions in this Article.

**ARTICLE 13—COST OF WORK; ALLOWANCES, UNIT PRICE WORK**

13.01 *Cost of the Work*


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~~SC-13.01 Supplement Paragraph 13.01.B.5.c.(2) by adding the following sentence:~~

~~The equipment rental rate book that governs the included costs for the rental of machinery and equipment owned by Contractor (or a related entity) under the Cost of the Work provisions of this Contract is the most current edition of **[name of equipment rental rate book]**.~~

~~SC-13.01 Supplement Paragraph 13.01.C.2 by adding the following definition of small tools and hand tools:~~

~~**a.** For purposes of this paragraph, "small tools and hand tools" means any tool or equipment whose current price if it were purchased new at retail would be less than $500. **[or insert other threshold price.]**~~

**SC-13.02.C – Delete paragraph in its entirety and insert "Deleted".**

13.03 *Unit Price Work*

**SC-13.03 Delete Paragraph 13.03.E in its entirety and insert the following in its place:**

**E. *Adjustments in Unit Price***

**1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:**

**a. the extended price of a particular item of Unit Price Work amounts to 25% percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 50% percent from the estimated quantity of such item indicated in the Agreement; and**

**b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.**

**2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.**

**3. Adjusted unit prices will apply to all units of that item.**

**ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCCEPTANCE OF DEFECTIVE WORK**

No suggested Supplementary Conditions in this Article.

**ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD**

15.01 *Progress Payments*


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**SC-15.01.B.4 – Add the following language at the end of paragraph:**

**No payments will be made that would deplete the retainage, place in escrow any funds that are required for retainage or invest the retainage for the benefit of the Contractor.**

**SC-15.01.B.5 – Add new paragraph immediately after Paragraph 15.01.B.4:**

**5. The Application for Payment form to be used on this Project is EJCDC® C-620. The Agency must approve all Applications for Payment before payment is made.**

**SC-15.01.D.1 – Delete paragraph in its entirety and insert the following in its place:**

**The Application for Payment with Engineer's recommendations will be presented to the Owner and Agency for consideration. If both the Owner and Agency find the Application for Payment acceptable, the recommended amount less any reduction under the provisions of Paragraph 15.01.E will become due thirty (30) days after the Application for Payment is presented to the Owner, and the Owner will make payment to the Contractor.**

SC-15.01 Add the following new Paragraph 15.01.F:

F. For contracts in which the Contract Price is based on the Cost of Work, if Owner determines that progress payments made to date substantially exceed the actual progress of the Work (as measured by reference to the Schedule of Values), or present a potential conflict with the Guaranteed Maximum Price, then Owner may require that Contractor prepare and submit a plan for the remaining anticipated Applications for Payment that will bring payments and progress into closer alignment and take into account the Guaranteed Maximum Price (if any), through reductions in billings, increases in retainage, or other equitable measures. Owner will review the plan, discuss any necessary modifications, and implement the plan as modified for all remaining Applications for Payment.

**SC-15.02.A – Amend paragraph by striking out the following text: "7 days after".**

15.03 *Substantial Completion*

SC-15.03 Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under this Article 15.

15.08 *Correction Period*

~~SC-15.08 Add the following new Paragraph 15.08.G:~~

~~G. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be the number of years~~


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~~set forth in SC-6.01.B.1; or if no such revision has been made in SC-6.01.B, then the correction period is hereby specified to be **[number]** years after Substantial Completion.~~

**ARTICLE 16—SUSPENSION OF WORK AND TERMINATION**

No suggested Supplementary Conditions in this Article.

**ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES**

17.02 *Arbitration*

SC-17.02 Add the following new paragraph immediately after Paragraph 17.01.

17.02 *Arbitration*

A. All matters subject to final resolution under this Article will be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (subject to the conditions and limitations of this Paragraph SC-17.02). Any controversy or claim in the amount of $100,000 or less will be settled in accordance with the American Arbitration Association's supplemental rules for Fixed Time and Cost Construction Arbitration. This agreement to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction.

B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitration administrator, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the specific time required in Article 17, or if no specified time is applicable within a reasonable time after the matter in question has arisen, and in no event will any such demand be made after the date when institution of legal or equitable proceedings based on such matter in question would be barred by the applicable statute of limitations.

C. The arbitrator(s) must be licensed engineers, contractors, attorneys, or construction managers. Hearings will take place pursuant to the standard procedures of the Construction Arbitration Rules that contemplate in-person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute or the Contract. Any award in an arbitration initiated under this clause will be limited to monetary damages and include no injunction or direction to any party other than the direction to pay a monetary amount.

D. The Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a specific Law or Regulation or this Contract permits them to do so.

E. The award of the arbitrators must be accompanied by a reasoned written opinion and a concise breakdown of the award. The written opinion will cite the Contract provisions deemed applicable and relied on in making the award.

F. The parties agree that failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges will constitute a waiver by that party to present evidence or cross-examine witness. In such event, the other party shall be required to present evidence and legal argument as the arbitrator(s) may require for the


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making of an award. Such waiver will not allow for a default judgment against the non-paying party in the absence of evidence presented as provided for above.

G. No arbitration arising out of or relating to the Contract will include by consolidation, joinder, or in any other manner any other individual or entity (including Engineer, and Engineer's consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:

1. the inclusion of such other individual or entity will allow complete relief to be afforded among those who are already parties to the arbitration;

2. such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration, and which will arise in such proceedings;

3. such other individual or entity is subject to arbitration under a contract with either Owner or Contractor, or consents to being joined in the arbitration; and

4. the consolidation or joinder is in compliance with the arbitration administrator's procedural rules.

H. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal, subject to provisions of the Laws and Regulations relating to vacating or modifying an arbitral award.

I. Except as may be required by Laws or Regulations, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties, with the exception of any disclosure required by Laws and Regulations or the Contract. To the extent any disclosure is allowed pursuant to the exception, the disclosure must be strictly and narrowly limited to maintain confidentiality to the extent possible.

17.03 *Attorneys' Fees*

SC-17.03 Add the following new paragraph immediately after Paragraph 17.02. [Note: If there is no Paragraph 17.02, because neither arbitration nor any other dispute resolution process has been specified here in the Supplementary Conditions, then revise this to state "Add the following new Paragraph immediately after Paragraph 17.01" and revise the numbering accordingly].

17.03 *Attorneys' Fees*

A. For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.


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**ARTICLE 18—MISCELLANEOUS**

18.08 *Assignment of Contract*

~~SC-18.08 Add the following new paragraph immediately after Paragraph 18.08.A:~~

~~B. The contract dated **[date]** between Owner as "buyer" and **[identify seller]** as "seller" for procurement of goods and special services ("procurement contract") **[is hereby] [will be]** assigned to Contractor by Owner, and Contractor **[accepts] [will accept]** such assignment. A form documenting the assignment is attached as an exhibit to this Contract.~~

~~1. This assignment will occur on the **[Effective Date of the Contract]**, and will relieve the Owner as "buyer" from all further obligations and liabilities under the procurement contract.~~

~~2. Upon assignment, the "seller" will be a Subcontractor or Supplier of the Contractor, and Contractor will be responsible for seller's performance, acts, and omissions, as set forth in Paragraph 7.07 of the General Conditions just as Contractor is responsible for all other Subcontractors and Suppliers.~~

~~3. Notwithstanding this assignment, all performance guarantees and warranties required by the procurement contract will continue to run for the benefit of the Owner and, in addition, for the benefit of the Contractor.~~

~~4. Except as noted in the procurement contract, all rights, duties and obligations of Engineer to "buyer" and "seller" under the procurement contract will cease **[upon the assignment to Contractor]**.~~

**SC-18.11 – Add new paragraph immediately after Paragraph 18.10:**

**18.11 *Tribal Sovereignty***

**A. No provision of this Agreement will be construed by any of the signatories as abridging or debilitating any sovereign powers of the [*Keweenaw Bay Indian Community*] Tribe; affecting the trust-beneficiary relationship between the Secretary of the Interior, Tribe, and Indian landowner(s); or interfering with the government-to-government relationship between the United States and the Tribe.**

**SC-19 – Add the following new Article 19 immediately after Article 18:**

**Article 19 - FEDERAL REQUIREMENTS**

**19.01 *Agency Not a Party***

**A. This Contract is expected to be funded in part with funds provided by Agency. Neither Agency, nor any of its departments, entities, or employees, is a party to this Contract.**

**19.02 *Contract Approval***


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**A. Owner and Contractor will furnish Owner's attorney such evidence as required so that Owner's attorney can complete and execute the "Certificate of Owner's Attorney" (Exhibit G of this Bulletin) before Owner submits the executed Contract Documents to Agency for approval.**

**B. Agency concurrence is required on both the Bid and the Contract before the Contract is effective.**

### 19.03 *Conflict of Interest*

**A. Contractor may not knowingly contract with a Supplier or Manufacturer if the individual or entity who prepared the Drawings and Specifications has a corporate or financial affiliation with the Supplier or Manufacturer. Owner's officers, employees, or agents shall not engage in the award or administration of this Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: (i) the employee, officer or agent; (ii) any member of their immediate family; (iii) their partner or (iv) an organization that employs, or is about to employ, any of the above, has a financial interest or other interest in or a tangible personal benefit from the Contractor. Owner's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractor or subcontractors.**

### 19.04 *Gratuities*

**A. If Owner finds after a notice and hearing that Contractor, or any of Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract.**

**B. In the event this Contract is terminated as provided in paragraph 19.04.A, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.**

### 19.05 *Small, Minority and Women's Businesses*

**A. If Contractor intends to let any subcontracts for a portion of the work, Contractor will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps will include:**


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**1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;**

**2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;**

**3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;**

**4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;**

**5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.**

**19.06 *Anti-Kickback***

**A. Contractor shall comply with the Copeland Anti-Kickback Act (40 USC 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Buildings or Public Works Financed in Whole or in Part by Loans or Grants of the United States"). The Act provides that Contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public facilities, to give up any part of the compensation to which they are otherwise entitled. Owner shall report all suspected or reported violations to Agency.**

**19.07 *Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended***

**A. Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).**

**19.08 *Equal Employment Opportunity***

**A. The Contract is considered a federally assisted construction contract. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."**


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**19.09 *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)***

**A. Contractors that apply or bid for an award exceeding $100,000 must file the required certification (RD Instruction 1940-Q Exhibit A-1). The Contractor certifies to the Owner and every subcontractor certifies to the Contractor that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining the Contract if it is covered by 31 U.S.C. 1352. The Contractor and every subcontractor must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.**

**19.10 Environmental Requirements**

**A. When constructing a Project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental conditions:**

**1. Wetlands – When disposing of excess, spoil, or other Construction Materials on public or private property, Contractor shall not fill in or otherwise convert wetlands.**

**2. Floodplains – When disposing of excess, spoil, or other Construction Materials on public or private property, Contractor shall not fill in or otherwise convert 100-year floodplain areas (Standard Flood Hazard Area) delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, e.g., alluvial soils on NRCS Soil Survey Maps.**

**3. Historic Preservation - Applicants shall ensure that Contractors maintain a copy of the following inadvertent discovery plan onsite for review:**

**a. If during the course of any ground disturbance related to any Project, any post review discovery, including but not limited to, any artifacts, foundations, or other indications of past human occupation of the area are uncovered, shall be protected by complying with 36 CFR § 800.13(b)(3) and (c) and shall include the following:**

**i. All Work, including vehicular traffic, shall immediately stop within a 50 ft. radius around the area of discovery. The Contractor shall ensure barriers are established to protect the area of discovery and notify the Engineer to contact the appropriate Agency personnel. The Engineer shall engage a Secretary of the Interior (SOI) qualified professional archeologist to quickly assess the nature and scope of the discovery; implement interim measures to protect the discovery from looting and vandalism; and establish broader barriers if further historic and/or precontact properties, can reasonably be expected to occur.**


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**ii. The Agency personnel shall notify the appropriate Agency environmental staff member, the Federal Preservation Officer (FPO), and State Historic Preservation Office (SHPO) immediately. Indian tribe(s) or Native Hawaiian Organization (NHOs) that have an interest in the area of discovery shall be contacted immediately. The SHPO may require additional tribes or NHOs who may have an interest in the area of discovery also be contacted. The notification shall include an assessment of the discovery provided by the SOI qualified professional archeologist.**

**iii. When the discovery contains burial sites or human remains, the Contractor shall immediately notify the appropriate Agency personnel who will contact the Agency environmental staff member, FPO, and the SHPO. The relevant law enforcement authorities shall be immediately contacted by onsite personnel to reduce delay times, in accordance with tribal, state, or local laws including 36 CFR Part 800.13; 43 CFR Part 10, Subpart B; and the Advisory Council on Historic Preservation's Policy Statement Regarding treatment of Burial Sites, Human Remains, or Funerary Objects (February 23, 2007).**

**iv. When the discovery contains burial sites or human remains, all construction activities, including vehicular traffic shall stop within a 100 ft. radius of the discovery and barriers shall be established. The evaluation of human remains shall be conducted at the site of discovery by a SOI qualified professional. Remains that have been removed from their primary context and where that context may be in question may be retained in a secure location, pending further decisions on treatment and disposition. The Agency may expand this radius based on the SOI professional's assessment of the discovery and establish broader barriers if further subsurface burial sites, or human remains can reasonably be expected to occur. The Agency, in consultation with the SHPO and interested tribes or NHOs, shall develop a plan for the treatment of native human remains.**

**v. Work may continue in other areas of the undertaking where no historic properties, burial sites, or human remains are present. If the inadvertent discovery appears to be a consequence of illegal activity such as looting, the onsite personnel shall contact the appropriate legal authorities immediately if the landowner has not already done so.**

**vi. Work may not resume in the area of the discovery until a notice to proceed has been issued by The Agency. The Agency shall not issue the notice to proceed until it has determined**


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**that the appropriate local protocols and consulting parties have been consulted.**

**vii. Inadvertent discoveries on federal and tribal land shall follow the processes required by the federal or tribal entity.**

**4. Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service.**

**5. Mitigation Measures – The following environmental mitigation measures are required on this Project: [*Insert mitigation measures from the Letter of Conditions here*].**

**19.11 *Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)***

**A. Where applicable, for contracts awarded by the Owner in excess of $100,000 that involve the employment of mechanics or laborers, the Contractor will comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, the Contractor will compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic will be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.**

**19.12 *Debarment and Suspension (Executive Orders 12549 and 12689)***

**A. A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.**

**19.13 *Procurement of recovered materials***

**A. The Contractor will comply with 2 CFR Part 200.322, "Procurement of recovered materials."**


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## EXHIBIT A—SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

| Item | Electronic Documents | Transmittal Means | Data Format | Note (1) |
|---|---|---|---|---|
| a.1 | General communications, transmittal covers, meeting notices and responses to general information requests for which there is no specific prescribed form. | Email | Email | |
| a.2 | Meeting agendas, meeting minutes, RFI's and responses to RFI's, and Contract forms. | Email w/ Attachment | PDF | (2) |
| a.3 | Contactors Submittals (Shop Drawings, "or equal" requests, substitution requests, documentation accompanying Sample submittals and other submittals) to Owner and Engineer, and Owner's and Engineer's responses to Contractor's Submittals, Shop Drawings, correspondence, and Applications for Payment. | Email w/ Attachment | PDF | |
| a.4 | Correspondence; milestone and final version Submittals of reports, layouts, Drawings, maps, calculations and spreadsheets, Specifications, Drawings and other Submittals from Contractor to Owner or Engineer and for responses from Engineer and Owner to Contractor regarding Submittals. | Email w/ Attachment or LFE | PDF | |
| a.5 | Layouts and drawings to be submitted to Owner for future use and modification. | Email w/ Attachment or LFE | DWG | |
| a.6 | Correspondence, reports and Specifications to be submitted to Owner for future word processing use and modification. | Email w/ Attachment or LFE | DOC | |
| a.7 | Spreadsheets and data to be submitted to Owner for future data processing use and modification. | Email w/ Attachment or LFE | EXC | |
| a.8 | Database files and data to be submitted to Owner for future data processing use and modification. | Email w/ Attachment or LFE | DB | |

| Notes | |
|---|---|
| (1) | All exchanges and uses of transmitted data are subject to the appropriate provisions of Contract Documents. |
| (2) | Transmittal of written notices is governed by Paragraph 18.01 of the General Conditions. |

| Key | |
|---|---|
| Email | Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies |
| LFE | Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive) |
| PDF | Portable Document Format readable by Adobe® Acrobat Reader |
| DWG | Autodesk® AutoCAD .dwg format |
| DOC | Microsoft® Word .docx format |
| EXC | Microsoft® Excel .xls or .xml format |
| DB | Microsoft® Access .mdb format |


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**~~EXHIBIT B—FORESEEABLE BAD WEATHER DAYS~~**

| ~~Month~~ | ~~Number of Foreseeable Bad Weather Days in Month Based on Precipitation as Rain Equivalent (inches) (1)~~ | ~~Ambient Outdoor Air Temperature (degrees F)~~ | |
|---|---|---|---|
| | | ~~Number of Foreseeable Bad Weather Days in Month Based on Low Temperature (at 11:00 a.m.)~~ | ~~Number of Foreseeable Bad Weather Days in Month Based on High Temperature (at 3:00 p.m.)~~ |
| ~~January~~ | | | |
| ~~February~~ | | | |
| ~~March~~ | | | |
| ~~April~~ | | | |
| ~~May~~ | | | |
| ~~June~~ | | | |
| ~~July~~ | | | |
| ~~August~~ | | | |
| ~~September~~ | | | |
| ~~October~~ | | | |
| ~~November~~ | | | |
| ~~December~~ | | | |

~~Notes:~~

~~1. Two inches of sleet equal one inch of rain. Five inches of wet, heavy snow equal one inch of rain. Fifteen inches of "dry" powder snow equals one inch of rain.~~


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**Contractor's Application for Payment**

| | | | |
|---|---|---|---|
| **Owner:** | Baraga County Road Commission | **Owner's Project No.:** | |
| **Engineer:** | U.P. Engineers & Architects, Inc. | **Engineer's Project No.:** | B10-00116 |
| **Contractor:** | | **Contractor's Project No.:** | |
| **Project:** | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| **Contract:** | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| **Application No.:** | | **Application Date:** | |
| **Application Period:** | **From** | **to** | |

| | | | | |
|---|---|---|---|---|
| 1. Original Contract Price | | | | $ - |
| 2. Net change by Change Orders | | | | $ - |
| 3. Current Contract Price (Line 1 + Line 2) | | | | $ - |
| 4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total) | | | | $ - |
| 5. Retainage | | | | |
| a. | X | $ - | Work Completed | $ - |
| b. | X | $ - | Stored Materials | $ - |
| c. Total Retainage (Line 5.a + Line 5.b) | | | | $ - |
| 6. Amount eligible to date (Line 4 - Line 5.c) | | | | $ - |
| 7. Less previous payments (Line 6 from prior application) | | | | |
| 8. Amount due this application | | | | $ - |
| 9. Balance to finish, including retainage (Line 3 - Line 4) | | | | $ - |

**Contractor's Certification**

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

**Contractor:**

**Signature:** **Date:**

| **Recommended by Engineer** | | **Approved by Owner** | |
|---|---|---|---|
| **By:** | | **By:** | |
| **Title:** | | **Title:** | |
| **Date:** | | **Date:** | |
| **Approved by Funding Agency** | | | |
| **By:** | | **By:** | |
| **Title:** | | **Title:** | |
| **Date:** | | **Date:** | |


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## Progress Estimate - Unit Price Work

## Contractor's Application for Payment

**Owner:** Baraga County Road Commission
**Engineer:** U.P. Engineers & Architects, Inc.
**Contractor:**
**Project:** ERFO 8 - Sutinen Road and ERFO 9 - Payne Road
**Contract:** ERFO 8 - Sutinen Road and ERFO 9 - Payne Road

**Owner's Project No.:**
**Engineer's Project No.:** B10-00116
**Contractor's Project No.:**

**Application No.:** **Application Period:** From to **Application Date:**

| A | B | C | D | E | F | G | H | I | J | K | L |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Contract Information | | | | Work Completed | | | | | |
| Bid Item No. | Description | Item Quantity | Units | Unit Price ($) | Value of Bid Item (C X E) ($) | Estimated Quantity Incorporated in the Work | Value of Work Completed to Date (E X G) ($) | Materials Currently Stored (not in G) ($) | Work Completed and Materials Stored to Date (H + I) ($) | % of Value of Item (J / F) (%) | Balance to Finish (F - J) ($) |
| Original Contract | | | | | | | | | | | |
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| | | | | | - | | - | | - | | - |
| | | | | Original Contract Totals | $ - | | $ - | $ - | $ - | | $ - |


EJCDC C-620 Contractor's Application for Payment
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## Progress Estimate - Unit Price Work

## Contractor's Application for Payment

| | | | |
|---|---|---|---|
| **Owner:** | Baraga County Road Commission | **Owner's Project No.:** | |
| **Engineer:** | U.P. Engineers & Architects, Inc. | **Engineer's Project No.:** | B10-00116 |
| **Contractor:** | | **Contractor's Project No.:** | |
| **Project:** | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| **Contract:** | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |

**Application No.:** _____ **Application Period:** **From** _____ **to** _____ **Application Date:** _____

| A | B | C | D | E | F | G | H | I | J | K | L |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Contract Information | | | | Work Completed | | | | | |
| Bid Item No. | Description | Item Quantity | Units | Unit Price ($) | Value of Bid Item (C X E) ($) | Estimated Quantity Incorporated in the Work | Value of Work Completed to Date (E X G) ($) | Materials Currently Stored (not in G) ($) | Work Completed and Materials Stored to Date (H + I) ($) | % of Value of Item (J / F) (%) | Balance to Finish (F - J) ($) |
| Change Orders | | | | | | | | | | | |
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| | | | | Change Order Totals | $ - | | $ - | $ - | $ - | | $ - |
| | | | | | | | | | | | |
| Original Contract and Change Orders | | | | | | | | | | | |
| | | | | Project Totals | $ - | | $ - | $ - | $ - | | $ - |



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# CERTIFICATE OF SUBSTANTIAL COMPLETION

| | | | |
|---|---|---|---|
| Owner: | Baraga County Road Commission | Owner's Project No.: | |
| Engineer: | U.P. Engineers & Architects, Inc. | Engineer's Project No.: | B10-00116 |
| Contractor: | | Contractor's Project No.: | |
| Project: | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| Contract Name: | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |

This ☐ Preliminary ☐ Final Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

Date of Substantial Completion:

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work must be as provided in the Contract, except as amended as follows:

Amendments to Owner's Responsibilities: ☐ None ☐ As follows:

Amendments to Contractor's Responsibilities: ☐ None ☐ As follows:

The following documents are attached to and made a part of this Certificate:

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

Engineer

By *(signature)*: _____

Name *(printed)*: _____

Title: _____


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**WORK CHANGE DIRECTIVE NO.:**

| | | | |
|---|---|---|---|
| Owner: | Baraga County Road Commission | Owner's Project No.: | |
| Engineer: | U.P. Engineers & Architects, Inc. | Engineer's Project No.: | B10-00116 |
| Contractor: | | Contractor's Project No.: | |
| Project: | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| Contract Name: | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| Date Issued: | | Effective Date of Work Change Directive: | |

Contractor is directed to proceed promptly with the following change(s):

Description:

**[Description of the change to the Work]**

Attachments:

**[List documents related to the change to the Work]**

Purpose for the Work Change Directive:

**[Describe the purpose for the change to the Work]**

Directive to proceed promptly with the Work described herein, prior to agreeing to change in Contract Price and Contract Time, is issued due to:

**Notes to User—Check one or both of the following**

☐ Non-agreement on pricing of proposed change. ☐ Necessity to proceed for schedule or other reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price: $ _____ **[increase] [decrease] [not yet estimated]**.

Contract Time: _____ days **[increase] [decrease] [not yet estimated]**.

Basis of estimated change in Contract Price:

☐ Lump Sum ☐ Unit Price ☐ Cost of the Work ☐ Other

| | Recommended by Engineer | Authorized by Owner |
|---|---|---|
| By: | | |
| Title: | | |
| Date: | | |


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**CHANGE ORDER NO.:**

| | | | |
|---|---|---|---|
| Owner: | Baraga County Road Commission | Owner's Project No.: | |
| Engineer: | U.P. Engineers & Architects, Inc. | Engineer's Project No.: | B10-00116 |
| Contractor: | | Contractor's Project No.: | |
| Project: | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| Contract Name: | ERFO 8 - Sutinen Road and ERFO 9 - Payne Road | | |
| Date Issued: | | Effective Date of Change Order: | |

The Contract is modified as follows upon execution of this Change Order:

Description:

Attachments:

| **Change in Contract Price** | **Change in Contract Times [State Contract Times as either a specific date or a number of days]** |
|---|---|
| Original Contract Price:<br>$ _____ | Original Contract Times:<br>Substantial Completion: _____<br>Ready for final payment: _____ |
| **[Increase] [Decrease]** from previously approved Change Orders No. ___ to No.___:<br>$ _____ | **[Increase] [Decrease]** from previously approved Change Orders No.___ to No.___:<br>Substantial Completion: _____<br>Ready for final payment: _____ |
| Contract Price prior to this Change Order:<br>$ _____ | Contract Times prior to this Change Order:<br>Substantial Completion: _____<br>Ready for final payment: _____ |
| **[Increase] [Decrease]** this Change Order:<br>$ _____ | **[Increase] [Decrease]** this Change Order:<br>Substantial Completion: _____<br>Ready for final payment: _____ |
| Contract Price incorporating this Change Order:<br>$ _____ | Contract Times with all approved Change Orders:<br>Substantial Completion: _____<br>Ready for final payment: _____ |

| Recommended by Engineer (if required) | Accepted by Contractor |
|---|---|
| By: _____ | _____ |
| Title: _____ | _____ |
| Date: _____ | _____ |
| **Authorized by Owner** | **Approved by Funding Agency (if applicable)** |
| By: _____ | _____ |
| Title: _____ | _____ |
| Date: _____ | _____ |

**EJCDC® C-941, Change Order.**
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# LABOR REQUIREMENTS

# Federal Letting Requirements-05

This booklet is a compilation of Federal Letting Requirements approved by the Michigan Department of Transportation and the Federal Highway Administration. Any of the Federal Letting Requirements contained herein that are applicable to a specific project shall be referred to in the project proposal and will not be physically attached to that proposal.

Michigan Department
Of Transportation
0196 (08/16)

# DISADVANTAGED BUSINESS ENTERPRISE (DBE) REMOVAL/SUBSTITUTION REQUEST

Clear Form

For projects with Race Conscious DBE Goals, this form MUST be FIRST approved by the Project Engineer then forwarded to MDOT's Office of Business Development for Final Approval. Please fax to (517) 335-0945 or email at MDOT-DBE@michigan.gov.

| CONTRACT ID | PRIME CONTRACTOR |
|---|---|
| CURRENT DBE GOAL % | PRIME CONTACT PERSON |
| PRIME PHONE | PRIME EMAIL ADDRESS |

IF THE DBE BEING REMOVED OR REPLACED IS SUBCONTRACTED WITH A LOWER TIER SUB, NAME THE "PARENT" SUBCONTRACTOR

DBE FIRM BEING REMOVED

| DOLLAR VALUE COMMITTED TO THIS DBE $ | WORK PERFORMED TO DATE $ |
|---|---|

REASON THIS DBE IS BEING REMOVED

WAS THE DBE FIRM GIVEN 5** DAYS WRITTEN NOTICE BEFORE REMOVAL? ☐ YES or ☐ NO If yes, please attach written notice.

WILL THE DBE GOAL FOR THE PROJECT STILL BE MET? ☐ YES or ☐ NO
If no, has form 0188 been submitted to OBD? ☐ YES or ☐ NO

| SUBSTITUTION SUBCONTRACTOR FIRM NAME (If identified) ☐ DBE or ☐ Non-DBE | IF THE SUBSTITUTION FIRM IS A DBE, WAS FORM 0178 SUBMITTED TO CSD? ☐ YES or ☐ NO If yes, please attach. |
|---|---|

FULLY DESCRIBE THE TYPE OF WORK THE SUBSTITUTE SUBCONTRACTOR WILL PERFORM

DBE credit may be claimed only for types of work in which the DBE firm is both certified and, if required, prequalified. DBE work classification eligibility can be confirmed using the Michigan Unified Certification Program Website at www.michigan.gov/mucp.

**ACKNOWLEDGED BY**
**By signing this replacement form, we certify that the information submitted is accurate and in accordance with the MDOT DBE Program Procedures.**

| AUTHORIZED SIGNATURE OF REMOVED DBE | TITLE | DATE |
|---|---|---|
| PRIME AUTHORIZED SIGNATURE | TITLE | DATE |
| PROJECT ENGINEER AUTHORZED SIGNATURE | TITLE | DATE |
| OFFICE OF BUSINESS DEVELOPMENT AUTHORIZED SIGNATURE | TITLE | DATE |

**Per 49 CFR Part 26.53, if required in a particular case as a matter of public necessity (e.g., safety), MDOT may require a response period shorter than five days**

MDOT must be notified immediately of a DBE's inability to perform any or all of its work and the Primes intent to obtain a substitute subcontractor. Primes are required to make a good faith effort to replace a DBE that is unable to perform, with another DBE. If the substitute subcontractor is a DBE, they must be included on the DBE Participation form (MDOT form 0178) and submitted to the Project Engineer and Contract Services Division for approval prior to starting work. Include any trucking or supply forms (4101 & 0193) as necessary.

If the DBE goal will not be met, a Post-Award Good Faith Effort Application (MDOT Form 0188) and all supporting documents must be sent to the Office of Business Development. This post-award application must be submitted within 14 calendar days of the prime vendor being made aware of their inability to meet the DBE participation goal.

Pursuant to 49 CFR Part 26.53 (f), unless consent to replace a DBE is granted by MDOT, the prime contractor shall not be entitled to any payment for work performed or materials supplied.

Michigan Department
of Transportation
2124A (09/20)

# PRIME CONTRACTOR BI-WEEKLY STATEMENT OF SUBCONTRACTOR/SUPPLIER PAYMENTS

Instructions

Clear Form



**DISTRIBUTION:** Resident / Project Engineer Office of Business Development.

*Portions of the information required in accordance with 49 CFR part 26.37 (as detailed in the prompt payment provisions to monitor the progress of the prime contractor in meeting contractual DBE obligations.)*

**SEE INSTRUCTIONS ON REVERSE**

| PRIME CONTRACTOR | CONTRACT ID |
|---|---|
| | |

BI-WEEKLY PERIOD ENDING: ☐ PROJECT COMPLETION

| SUBCONTRACTOR, DBE SUBCONTRACTOR, DBE TRUCKER, DBE SUPPLIER OR SERVICE PROVIDER | SERVICES/WORK CLASSIFICATION | TOTAL SUB CONTRACT AMOUNT | CUMULATIVE DOLLAR VALUE OF SERVICES COMPLETED | DEDUCTIONS | ACTUAL AMOUNT PAID TO DATE | DBE AUTHORIZED SIGNATURE AT PROJECT COMPLETION ONLY | DATE |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
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| | | | | | | | |
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| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

*As the authorized representative of the above prime contractor, I certify that all payments to non-DBE truckers, and non-DBE suppliers that have performed work or supplied materials to the prime during the reporting period have been made, and I certify that this information is true and accurate.*

| CONTRACTORS AUTHORIZED REPRESENTATIVE *(Signature)* | TITLE | DATE |
|---|---|---|
| | | |

**FOR THE MICHIGAN DEPARTMENT OF TRANSPORTATION USE ONLY**

COMMENTS

| RESIDENT/PROJECT ENGINEER *(Signature)* | DATE |
|---|---|
| | |

# INSTRUCTIONS

**PRIME CONTRACTOR or AUTHORIZED REPRESENTATIVE:**

This statement reports the actual dollar amounts of the project cost earned by and paid to all subcontractors, DBE subcontractors, DBE suppliers, and DBE truckers. Complete and submit to the Resident/Project Engineer on a bi-weekly basis during the course of the project using the MERS database. This submittal is required prior to release of the second and subsequent estimates per FUSP 109(A).

For **all** DBE Vendors that provided a service on the project, a DBE signed hard copy of this form must also be submitted 30 days after project completion with actual DBE signature (not using MERS).

For "Control Section" and "Job No." Use the numbers assigned by MDOT.

For "Services/Work Classification", report services/work performed by DBE subcontractors, DBE suppliers, DBE truckers, and DBE consultants listed by work classification code. If they are performing work in more than one classification, report the code with the largest dollar value. A list of work classification codes is available at www.Michigan.gov/mucp.

For "Total Subcontract Amount", report total amount of the contract between the prime contractor and the subcontractor.

For "Cumulative Dollar Value of Services Completed", report total cumulative value of all services completed.

For "Deductions", report deductions made by the prime contractor to the subcontractor's "Cumulative Dollar Value Of Services Completed" for bond or other fees, materials, services or equipment provided to the subcontractor according to mutual, prior agreement (documentation of such agreement may be required by MDOT).

For "Actual Amount Paid to Date", report cumulative actual payments made to the subcontractor for services completed, subtracting any "Deductions".

Provide "DBE Authorized Signature" on the project completion report for all DBE vendors, even those that work on a project without a DBE goal.

Be sure to sign, title and date the project completion report.

**MDOT RESIDENT/ PROJECT ENGINEER:**

Please complete the "Comments" area, date and submit within the MERS database within 7 days of receipt from prime. Please complete the "Comments" area, sign, date, and fax the project completion report only to 517-335-0945 or e-mail to MDOT-Paymentstatements @Michigan.gov within 7 days of receipt from prime.

MDOT Office of Business Development
P.O. Box 30050
Lansing, Michigan 48909
Questions about this form? Call Toll-free, 1-866-DBE-1264

**APPENDIX** A
**PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS**

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act. No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980, the contractor hereby agrees not to discriminate against an employee or applicant for employment tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontractors to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as in herein before set forth in section 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, marital status or disability that is unrelated to the individuals ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

6. The contractor will comply with relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission, and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated, and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an exiting contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. The contractor will include, or incorporate by reference, the provisions of the forgoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

**The Civil Rights Commission referred to as the Michigan Civil Rights Commission*

# TITLE VI ASSURANCE

# APPENDIX C

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-assisted programs of the Department of Transportation, Title 49, code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein 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, 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 Regulation, including employment practices when the contractor 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 the contract and the Regulations relative to nondiscrimination on the grounds of race, color, 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 State Highway department of 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 State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

**5.** **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department 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 procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the State highway department 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 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 State highway department to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States

# COUNTY MINORITY & FEMALE* PERCENTAGES

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1. | Alcona | 5.2% | 29. | Gratiot | 5.2% | 57. | Missaukee | 4.9% |
| 2. | Alger | 1.0% | 30. | Hillsdale | 5.5% | 58. | Monroe | 8.8% |
| 3. | Allegan | 4.9% | 31. | Houghton | 1.0% | 59. | Montcalm | 4.9% |
| 4. | Alpena | 5.2% | 32. | Huron | 5.2% | 60. | Montmorency | 5.2% |
| 5. | Antrim | 4.9% | 33. | Ingham | 5.5% | 61. | Muskegon | 9.7% |
| 6. | Arenac | 5.2% | 34. | Ionia | 5.5% | 62. | Newaygo | 4.9% |
| 7. | Baraga | 1.0% | 35. | Iosco | 5.2% | 63. | Oakland | 17.7% |
| 8. | Barry | 7.2% | 36. | Iron | 1.0% | 64. | Oceana | 9.7% |
| 9. | Bay | 2.2% | 37. | Isabella | 5.2% | 65. | Ogemaw | 5.2% |
| 10. | Benzie | 4.9% | 38. | Jackson | 5.1% | 66. | Ontonagon | 1.2% |
| 11. | Berrien | 6.2% | 39. | Kalamazoo | 5.9% | 67. | Osceola | 4.9% |
| 12. | Branch | 5.5% | 40. | Kalkaska | 4.9% | 68. | Oscoda | 5.2% |
| 13. | Calhoun | 7.2% | 41. | Kent | 5.2% | 69. | Otsego | 5.2% |
| 14. | Cass | 6.2% | 42. | Keweenaw | 1.0% | 70. | Ottawa | 5.2% |
| 15. | Charlevoix | 4.9% | 43. | Lake | 4.9% | 71. | Presque Isle | 5.2% |
| 16. | Cheboygan | 5.2% | 44. | Lapeer | 17.7% | 72. | Roscommon | 5.2% |
| 17. | Chippewa | 5.2% | 45. | Leelanau | 4.9% | 73. | Saginaw | 14.3% |
| 18. | Clare | 5.2% | 46. | Lenawee | 7.3% | 74. | Sanilac | 16.7% |
| 19. | Clinton | 5.5% | 47. | Livingston | 17.5% | 75. | Schoolcraft | 1.0% |
| 20. | Crawford | 5.2% | 48. | Luce | 5.2% | 76. | Shiawassee | 12.6% |
| 21. | Delta | 1.0% | 49. | Mackinac | 5.2% | 77. | St. Clair | 17.7% |
| 22. | Dickinson | 1.0% | 50. | Macomb | 17.7% | 78. | St. Joseph | 5.2% |
| 23. | Eaton | 5.5% | 51. | Manistee | 4.9% | 79. | Tuscola | 5.2% |
| 24. | Emmet | 4.9% | 52. | Marquette | 1.0% | 80. | VanBuren | 5.9% |
| 25. | Genesee | 12.6% | 53. | Mason | 4.9% | 81. | Washtenaw | 8.5% |
| 26. | Gladwin | 5.2% | 54. | Mecosta | 4.9% | 82. | Wayne | 17.7% |
| 27. | Gogebic | 1.2% | 55. | Menominee | 1.0% | 83. | Wexford | 4.9% |
| 28. | Gr. Traverse | 4.9% | 56. | Midland | 5.2% | | | |

*The construction goal for women in any Michigan county is 6.9%

Minority and female percentages are taken from the Office of Federal Contract Compliance Program Statistics.

1/14

# Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction

## (EXECUTIVE ORDER 11246)

1. The offeror's or bidder's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

2. The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

| Goals for Minority participation for each trade | Goals for Female participation for each trade |
|---|---|
| See County Minority and Female Percentages chart | 6.9% |

These goals are applicable to all Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60–4 shall be based on **(1)** its implementation of the Equal Opportunity clause, **(2)** specific affirmative action obligations required by the clause entitled *Affirmative Action Compliance Requirements for Construction,* and **(3)** its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60–4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the—

   - Name, address, and telephone number of the subcontractor;
   - Employer's identification number of the subcontractor;
   - Estimated dollar amount of the subcontract;
   - Estimated starting and completion dates of the subcontract; and
   - Geographical area in which the subcontract is to be performed.

4. For this Notice, and in any contract resulting from this solicitation, the covered area is the county or counties listed in the Notice of Advertisement. When multiple counties are listed, the minority participation percentage is determined by the covered area county with the greater percentage.

[48 FR 42478, Sept. 19, 1983, as amended at 55 FR 38518, Sept. 18, 1990; 63 FR 70286, Dec. 18, 1998]

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY**
**CONSTRUCTION CONTRACT SPECIFICATIONS**
**(EXECUTIVE ORDER 11246)**

1. **As used in these specifications:**

   a. **"Covered area" means the geographical area described in the solicitation from which this contract resulted;**

   b. **"Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;**

   c. **"Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.**

   d. **"Minority" includes:**

      (i) **Black (all person having origins in any of the Black African racial groups not of Hispanic origin); and**

      (ii) **Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture of origin, regardless of race); and**

      (iii) **Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, South East Asia, the Indian Subcontinent, or the Pacific Islands); and**

      (iv) **American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation and participation or community identification).**

2. **Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitation from which this contract resulted.**

3. **If the Contractor is participating (pursuant to 41 CFR 60.4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such**

**Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.**

**4.** **The Contractor shall implement the specific affirmative action standards provided in paragraph 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal of federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals is each craft during the period specified.**

**5.** **Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.**

**6.** **In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.**

**7.** **The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:**

**a.** **Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.**

**b.** **Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.**

**c.** **Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a**

**union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.**

**d.** **Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.**

**e.** **Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.**

**f.** **Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction is performed.**

**g.** **Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.**

**h.** **Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.**

**i.** **Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.**

**j.** **Encourage present minority and female employees to recruit other minority persons**

**and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.**

**k.** **Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60.3.**

**l.** **Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.**

**m.** **Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.**

**n.** **Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.**

**o.** **Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.**

**p.** **Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.**

**8.** **Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetable, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.**

**9.** **A single goal for minorities and separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).**

**10.** **The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.**

**11.** **The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.**

**12.** **The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.**

**13.** **The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.**

**14.** **The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.**

**15.** **Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).**

**Detroit Area Office**

**Christopher Edwards, Area Office Director**
**U.S. DOL/ESA/OFCCP**
**Detroit Area Office**
**211 West Fort Street**
**Detroit, Michigan 48226**
**Phone: 313/226-3728**

**Michigan Counties:**

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|---|---|---|---|---|---|
| **Alcona** | **Benzie** | **Clare** | **Grand Traverse** | **Isabella** | **Lenawee** |
| **Allegan** | **Berrien** | **Clinton** | **Gratiot** | **Kalamazoo** | **Livingston** |
| **Alpena** | **Branch** | **Crawford** | **Hillsdale** | **Kalkaska** | **Macomb** |
| **Antrim** | **Calhoun** | **Eaton** | **Huron** | **Kent** | **Manistee** |
| **Arenac** | **Cass** | **Emmet** | **Ingham** | **Lake** | **Mason** |
| **Barry** | **Charlevoix** | **Genesee** | **Ionia** | **Lapeer** | **Mecosta** |
| **Bay** | **Cheboygan** | **Gladwin** | **Iosco** | **Leelanau** | **Midland** |

**Michigan Counties:**

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|---|---|---|---|
| **Missaukee** | **Oceana** | **Roscommon** | **Van Buren** |
| **Monroe** | **Ogemaw** | **St. Clair** | **Washtenaw** |
| **Montcalm** | **Osceola** | **St. Joseph** | **Wayne** |
| **Montmorency** | **Oscoda** | **Saginaw** | **Wexford** |
| **Muskegon** | **Otsego** | **Sanilac** | |
| **Newaygo** | **Ottawa** | **Shiawassee** | |
| **Oakland** | **Presque Isle** | **Tuscola** | |

**Milwaukee Area Office**

**Mr. Robert Potter**
**U.S. DOL/ESA/OFCCP**
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**Michigan Counties:**

| | | | | |
|---|---|---|---|---|
| **Alger** | **Delta** | **Houghton** | **Luce** | **Menominee** |
| **Baraga** | **Dickinson** | **Iron** | **Mackinac** | **Ontonagon** |
| **Chippewa** | **Gogebic** | **Keweenaw** | **Marquette** | **Schoolcraft** |

Appendix A to Subpart A of Part 230—Special Provisions

Specific Equal Employment Opportunity Responsibilities

1. *General.* a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract, Provisions (Form PR-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to section 140 of title 23 U.S.C., as established by section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b. The contractor will work with the State highway agencies and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of $10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in volume 6, chapter 4, section 1, subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of $10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. *Equal Employment Opportunity Policy.* The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training.

3. *Equal Employment Opportunity Officer.* The contractor will designate and make known to the State highway agency contracting officers and equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. *Dissemination of Policy.* a. All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment

opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official, covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

(3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, *i.e.,* schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:

(1) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2) The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment. a. When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. *Personnel Actions.* Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

**a.** The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

**b.** The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

**c.** The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

**d.** The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

*7. Training and Promotion.* a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

**b.** Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, *i.e.,* apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.

**c.** The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

**d.** The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. *Unions.* If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

**a.** The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

**b.** The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.

**c.** The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor

union refuses to furnish such information to the contractor, the contractor shall so certify to the State highway department and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the State highway agency.

***9.*** *Subcontracting.* a. The contractor will use his best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from State highway agency personnel.

b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

***10.*** *Records and Reports.* a. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

**(1)** The number of minority and nonminority group members and women employed in each work classification on the project.

**(2)** The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force),

**(3)** The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and

**(4)** The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.

**b.** All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State highway agency and the Federal Highway Administration.

**c.** The contractors will submit an annual report to the State highway agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR 1391. If on-the-job training is being required by "Training Special Provision", the contractor will be required to furnish Form FHWA 1409.

[40 FR 28053, July 3, 1975, as amended at 43 FR 19386, May 5, 1978. Correctly redesignated at 46 FR 21156, Apr. 9, 1981]

**REQUIRED CONTRACT PROVISIONS**
**FEDERAL-AID CONSTRUCTION CONTRACTS**

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

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

## I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

## II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

## III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

## IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii)The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

**2.Withholding**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**3.Payrolls and basic records**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii)That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**4. Apprentices and trainees**

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages**. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

0. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

T his pro v i s i o n i s applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

T his pro v i s i o n i s applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

**IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

**X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

**2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

**NOTICE TO BIDDERS**
**FOR**
**INDIAN PREFERENCE IN EMPLOYMENT ON AND NEAR**
**THE L'ANSE FEDERAL INDIAN RESERVATION**



## PURPOSE

The purpose of this notice to bidders is to outline the "Tribal Employment Rights Office (TERO) Indian Preference in Employment" requirements and procedures to be followed by The Keweenaw Bay Indian Community, the Baraga County Road Commission, and all Contractors or subcontractors engaged in the highway construction work that is under contract with the Keweenaw Bay Indian Community and/or the Baraga County Road Commission for the ERFO 8 - Sutinen Road and ERFO 9 - Payne Road **Project** that is located on serves the L'Anse Federal Indian Reservation.

## BACKGROUND

The United States Code (USC), Title 23, Section 140 was amended by the 1987 reauthorization of the Surface Transportation Assistance Act by adding paragraph (d) "Indian Employment and Contracting" concerning preferential employment of Indians living on or near a reservation on federal-aid projects and contracts on Indian reservation roads. It was further amended by Section 1026 of the Intermodel Surface Transportation Efficiency Act of 1991 (ISTEA) to include "States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations." (As defined in the Tribal Employment Rights Office Code, Chapter I, Section E., the term "Indian" means "any person enrolled in a federally recognized tribe and recognized by the United States pursuant to its trust responsibility to American Indians".

## AUTHORITY

The Baraga County Road Commission acknowledges the inherent sovereign authority of The Keweenaw Bay Indian Community to promulgate and enforce the TERO Code within the boundaries of the L'Anse Federal Indian Reservation and acknowledges Title 23, Section 140(d) of the USC.

The current TERO Code of the Keweenaw Bay Indian Community of the L'Anse Federal Indian Reservation and its compliance requirements and procedures are incorporated herein and made part of this notice to bidders.

## APPLICABILITY

Eligible projects for Indian Employment preference consideration under this special provision are those jobs which are on roads termed "Tribal Transportation Facility" according to USC Title 23, Section 202(b)(1)(B) and on roads near the boundaries of reservations and other Indian lands. Sutinen and Payne Road is a Tribal Transportation Facility "on" and/or "serving" the L'Anse Federal Indian Reservation.

## ELIGIBLE EMPLOYEES

All Indians are eligible for Indian preference without regard to tribal affiliation or place of enrollment. However, recruiting efforts will be targeted toward those living on or near the L'Anse Federal Indian Reservation.

Employers with collective bargaining agreements with a union are responsible for informing such unions of this requirement.

## INDIAN PREFERENCE GOAL

The Indian Employment Preference goal established by the TERO office is **TWENTY FIVE PERCENT (25%)**.

Classifications for the Indian Preference goal consideration are:

Carpenter
Laborer
Equipment Operator
Cement Masons
Truck Drivers
Road Work/Flagger
Ironworkers

Classification shall be according to requirements for certified payrolls.

Goals will apply to TOTAL PROJECT WORK HOURS and will not be applied individually to the Contractor and subcontractors. Goals do not apply to number of persons employed at any given period of time. The Contractor can also apply Indian workers employed by Indian-owned businesses for subcontracted work to meet the TOTAL PROJECT WORK HOURS goal. Any on-the-job Indian trainee can also be included to meet the TOTAL PROJECT WORK HOURS goal.

These Indian employment goals are for the Contractor's work force who are other than core crew members. A Contractor's core crew is composed of full-time employed individuals necessary to satisfy his/her reasonable needs for supervisory or special experienced personnel to assure an efficient execution of the contract work. Indian employees of the Contractor shall be included in the core crew, regardless of job function, to avoid the unintended results of having a Contractor lay-off or terminate an Indian employee to hire another under this provision.

In setting these employment goals, consideration has been given to the availability of skilled and unskilled Indian workers, the type of work to be performed, the Contractor's employment requirements, the need for new hires, and unemployment rates prevailing among non-Indians. Consideration has also been given to the employment goals for minorities and women established for the area by the U.S. Department of Labor's Office of Federal Contract Compliance Programs pursuant to Chapter 41, Code of Federal Regulations, Part 60.4.

These goals may only be changed after consultation with the Keweenaw Bay Indian Community and the Contractor, and after consideration of the good faith efforts of the Contractor together with the ability of the Tribe to refer workers in numbers and in time for the Contractor to meet the goals and to perform the work.

If the Tribe is unable to provide sufficient qualified or qualifiable applicants to meet the employment goal within 48 hours of the placement of a job order by the Contractor, the Contractor, ensuring nondiscrimination and providing equal employment opportunity, may recruit from other sources off the L'Anse Federal Indian Reservation. The Contractor shall give full consideration to all qualified job applicants referred by the Tribe. The Contractor is not required to employ any applicant who, in the Contractor's opinion, is not qualified to perform the classification of work required.

## FRINGE BENEFITS

All fringe benefits for Indian workers referred by the Tribal Employment Rights Office shall be paid in cash. Indian workers who are union members will have the option of fringe benefits in cash or paid into a bonafide plan or program. However, this does not change any agreements between Indian union members and their respective unions.

## PRECONSTRUCTION CONFERENCE

The preconstruction conference will be the forum for finalizing all compliance agreements and requirements between the Tribe and the Contractor and subcontractor(s) and to answer any questions regarding Indian Preference and applicable special provisions.

## COMPLIANCE

The Keweenaw Bay Indian Community will follow normal contract compliance procedures to effect compliance. The Keweenaw Bay Indian Community may elect to invite the Baraga County Road Commission to assist their monitoring efforts in all or any part of its compliance process. The Keweenaw Bay Indian Community will review the Contractor's employment practices and take appropriate enforcement actions when the goal is not reached after consideration of good faith efforts. Contact the Tribal Employment Rights Office for sanctions that may be imposed for failure to meet these goals.

**NOTICE TO BIDDERS**
**FOR**
**INDIAN PREFERENCE IN EMPLOYMENT ON AND NEAR**
**THE L'ANSE FEDERAL INDIAN RESERVATION**



## COMPLIANCE DEPOSIT

A compliance deposit is required and is outlined in Section 105 of the Tribal Employment Rights Ordinance. The Contractor shall provide documentation of the compliance deposit submittal(s) to the Baraga County Road Commission.

## SUBMITTAL REQUIREMENTS

The Contractor shall complete a proposed TERO COMPLIANCE PLAN (on the form provided for in the attachments to this notice to bidders), attaching applicable supplemental information as required.

The Contractor shall be required to submit a final, completed TERO COMPLIANCE PLAN, signed by both the Contractor **and the TERO office**, to the project engineer at the preconstruction meeting.

## COSTS

The Costs related to compliance with the "Indian Preference in Employment on and near the L'Anse Federal Indian Reservation" shall be borne solely by the Contractor.

## ATTACHMENTS

The following attachments are included and shall be part of this Notice to Bidders:

1. "NOTICE TO EMPLOYERS" (1 sheet)
2. "TERO COMPLIANCE PLAN AND AGREEMENT" ( 3 sheets)
3. "COMPLIANCE REVIEW FORMS" (2 sheets)
4. "MONTHLY TERO REPORT" (1 sheet)
5. "Keweenaw Bay Indian Community TRIBAL EMPLOYMENT RIGHTS ORDINANCE", "ENFORCEMENT GUIDELINES" and "MODIFICATIONS TO THE TERO ENFORCEMENT GUIDELINES"
   (10 sheets)

For more information or questions regarding the TERO, the Contractor is advised to contact Ms. Debbie Picciano TERO/EEO Director at the address shown on the "NOTICE TO EMPLOYERS" .

*********

**Keweenaw Bay Indian Community**
**Tribal Employment Rights (TERO/EEO)**
**Debra L. Picciano, Director**
***Tribal Center, 16429 Beartown Road, Baraga, MI 49908***
***(906) 353-4167*** ***Fax 353-7540***

# NOTICE TO EMPLOYERS

## Tribal Law: Tribal Employment Rights Ordinance

**TO: All existing and future employers, contractors, and subcontractors, located or engaging in commercial business or employment activity on or near the L'Anse Federal Indian Reservation.**

**NOTICE IS HEREBY GIVEN** that you are required to comply with the Tribal Employment Rights Ordinance of the Keweenaw Bay Indian Community which requires Indian hiring preference in all construction employment, other employment, training and contractors on the L'Anse Federal Indian Reservation.

**BE ADVISED** that Section 105 of the TERO requires construction contractors with a contract of $100,000 or more to make a one-time deposit with Keweenaw Bay Indian Community of one-half of one percent (0.5%) of the total amount of the contract.

**BE ADVISED** that Section 106 of the TERO provides that any employer who fails to comply with the laws, rules, regulations, or guidelines of the Keweenaw Bay Indian Community, or who fails to obtain the necessary agreements from its signatory unions shall be subject to sanctions which shall include but are not limited to:

1) Denial of the right to commence business within the jurisdiction of the Tribe;
2) Fines;
3) Suspension of the employers operations;
4) Denial of the right to conduct any further business within the jurisdiction of the Tribe;
5) Payment of back pay or other relief to correct any harm done to aggrieved Indians;
6) The summary removal of employees hired in violation of the Keweenaw Bay Indian Community employment rights requirements.

All employers and future employers, contractors, and subcontractors who are performing or intending to perform work on the L'Anse Federal Indian Reservation must contact the **Keweenaw Bay Indian Community TERO Director** to develop compliance plans. Copies of the TERO and Enforcement Guidelines are available at the office of the Keweenaw Bay Indian Community TERO/EEO at the location referred to below.

**KBIC Tribal Employment Rights Office**

Debra L. Picciano, TERO Director
16429 Beartown Road
Baraga, Michigan 49908
(906) 353-4167

E-mail: debbie.picciano@kbic-nsn.gov

**KEWEENAW BAY INDIAN COMMUNITY**
OFFICE OF TRIBAL EMPLOYMENT RIGHTS/EQUAL EMPLOYMENT OPPORTUNITY
*107 BEARTOWN ROAD • BARAGA, MICHIGAN • 49908*
*PHONE: 906-353-4167 • CELL: 906-395-0276 • FAX: 906-353-7540*

# TRIBAL EMPLOYMENT RIGHTS ORDINANCE
# KB-1983-01

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AN ORDINANCE of the Keweenaw Bay Indian Community adopted under the authority delegated to the Tribal Council by the Constitution and Bylaws of the Keweenaw Bay Indian Community to establish an employment rights program and office and enact laws to increase the employment of Indian people.

History: 1983, Tribal Employment Rights Ordinance, Eff. Feb. 5, 1983.

Popular Name: TERO Ordinance

## § 101. Purpose and Intent

**A.** Like land, water and minerals, jobs in private employment on or near the L'Anse Indian Reservation are an important resource for Indian people, and Indians must use their rights to obtain their rightful share of such jobs as they become available.

**B.** Indians have unique and special employment rights, and the Keweenaw Bay Indian Tribal government has the inherent sovereign power to pass laws to implement and enforce those special rights on behalf of Indians.

**C.** Indians are also entitled to the protection of the laws that the Federal government has adopted to combat employment discrimination; Tribal governments can and should play a role in the enforcement of those laws.

**D.** The Keweenaw Bay Indian Community believes that it is important to establish an employment rights program and office, to use the aforementioned laws and powers to increase employment of, and to eradicate discrimination against, Indian people.

Citation History: Formerly §101 of the Keweenaw Bay Indian Community Tribal Employment Rights Ordinance, enacted on February 5, 1983.

**§ 102. Employment Rights Office**

**A.** The Keweenaw Bay Tribal Council does hereby establish the Keweenaw Bay Indian Tribal Employment Rights Office (hereinafter called TERO) as an independent office of the Tribe, reporting to the Tribal Chairman.

**B.** The Director of TERO shall be appointed by the Tribal Council. The Keweenaw Bay Tribal Business Committee shall have the authority to hire staff.

**C.** The TERO Director shall have the authority to expend funds appropriated by the Tribal Council, and to obtain and expend funding from federal, state or other sources to carry out the purposes of TERO.

**D.** TERO shall have the authority to issue rules, regulations and guidelines to implement the employment rights requirements imposed by this Ordinance, and to hold hearings, subpoena witnesses and documents, to require employers to submit reports, and to take such other actions as are necessary for the fair and vigorous implementation of this Ordinance.

**§ 103. Employment Requirements**

**A.** All employers operating within the jurisdiction of the Keweenaw Bay Indian Community are hereby required to give preference to Indians in hiring, promotion, training, and all other aspects of employment. Said employers shall comply with all rules, regulations and guidelines of TERO which set forth specific obligations of the employer regarding Indian preference.

**B.** Any covered employer who has a collective bargaining agreement with one or more unions shall obtain written agreement(s) from said union(s) stating that the union shall comply with the Indian preference laws, rules, regulations and guidelines of the Keweenaw Bay Indian Community. Such agreement(s) shall be subject to the approval of TERO.

**§ 104. Implementation Authority of TERO.**

**A.** The following actions may be taken hereunder by TERO to implement the above Employment Requirements:

1. Impose numerical hiring goals and timetables that specify the minimum number of Indians an employer must hire, by craft or skill level.

2. Require covered employers to establish or participate in such training programs as TERO determines necessary, to increase the pool of qualified Indians on the L'Anse Indian Reservation as quickly as possible.

3. Coordinate, in conjunction with the Tribal Personnel Office, the establishment of a tribal hiring hall, and impose a requirement that no covered employer may hire a non-Indian until the tribal hiring hall has certified that no qualified Indian is available to fill the vacancy.

4. Prohibit covered employers from using qualification criteria or other personnel requirements that serve as barriers to Indian employment, unless the employer can demonstrate that such criteria or requirements are absolutely required by business necessity. In developing regulations to implement this requirement, TERO shall adopt Equal Employment Opportunity Commission (EEOC) guidelines on these matters to the extent that they are appropriate. TERO shall have the right to impose its own requirements in addition to or in lieu of EEOC guidelines. However, TERO is not authorized to impose this requirement until one year from the effective date of this Ordinance.

5. To enter into agreements with unions to insure union compliance with this Ordinance. Such agreements shall in no way constitute recognition or endorsement of any union.

6. Take such other actions as are necessary to achieve the purposes and objectives of this Ordinance. However, the implementation of any activities or requirements that constitute a significant new component to this program, beyond those listed in subparagraphs of this Section, shall be subject to the prior approval of the Tribal Council.

**B.** TERO is authorized to enter into cooperative relationships with federal employment rights agencies, such as EEOC and OFCCP, to eliminate discrimination against Indians on and off the Keweenaw Bay Indian Reservation.

**§ 105 Compliance Deposits; Forfeiture**

**A.** A compliance deposit, to encourage cooperation by employers, is hereby imposed as follows:

1. Every covered construction contractor with a contract of $100,000 or more shall make a one-time deposit of one-half (½) of one percent (1%) of the total amount of the contract. The deposit may be paid in installments, as follows:

a. 50% at the project starting date;

b. 25% at the project starting date plus thirty (30) days, (or at project completion, if sooner);

c. 25% at the project starting date plus sixty (60) days, (or at project completion, if sooner).

2. Every covered employer, other than construction contractors, with twenty or more employees or gross sales of $100,000 or more, shall make an annual deposit of one-half (½) of one percent (1%) of the annual payroll of that employer. This requirement shall not apply to educational, health, governmental, and non-profit employers.

**B.** The above required deposits shall be paid to the Tribal government and shall be placed in a special account to be used as outlined in the following subparagraph C. The Billings Manager shall be responsible for collecting said deposits and is authorized to establish such rules and regulations as are necessary to insure a fair and timely collection process. An employer or contractor who fails to pay the required deposit shall be subject to the sanctions provided for in Section 6, herein.

**C.** Forfeiture of Compliance Deposits, or portions thereof, shall be required for the following occurrences of verified non-compliance as defined by TERO Guidelines for Enforcement:

1) First occasion of verified non-compliance ten percent (10%) forfeiture.

2. Second occasion of verified non-compliance twenty percent (20%) forfeiture.

3. Third occasion of verified non-compliance forty percent (40%) forfeiture.

**D.** Forfeiture of Compliance Deposits as prescribed in subparagraph C above shall be considered as one of seven (7) optional sanctions available to TERO to assure compliance with Tribal employment policies and practices. At the discretion of the Director, any other(s) of the seven (7) sanctions may be used in addition to or in lieu of the above forfeiture(s) at any time after the first occasion of verified non-compliance.

**E.** After completion for the covered project, the Tribal government shall refund to the employer any remaining balance of the Compliance Deposit, upon certification by the TERO Director that such balance is due and payable.

### § 106 Sanctions for Non-Compliance

**A.** Any employer who fails to comply with the laws, rules, regulations, or guidelines on employment rights of the Keweenaw Bay Indian Community, or who fails to obtain the necessary agreements from its signatory unions, shall be subject to sanctions which shall include but are not limited to:

1) denial of the right to commence business within the jurisdiction of the Tribe;

2) fines;

3) suspension of the employer's operation;

4) termination of the employer's operation;

5) denial of the right to conduct any further business within the jurisdiction of the Tribe;

6) payment of backpay or other relief to correct any harm done to aggrieve Indians; and

7) the summary removal of employees hired in violation of the L'Anse Reservation employment rights requirements.

**B.** Sanctions shall be imposed by the Business Committee, after allowing the employer an opportunity to present evidence showing why he or she did not violate the requirements or why he or she should not be sanctioned. An employer shall have the right to appeal to the Tribal Court any decision made by the Business Committee that imposes sanctions on him or her.

### § 107 Agency and Office Coordination

**A.** All reservation employment and training functions, including the Bureau of Indian Affairs Employment Assistance Program, shall devote such of their resources as are necessary to prepare Indians for the job opportunities to be opened up by the Tribal Employment Rights Program.

**B.** The Director of TERO shall coordinate with the Director of the Tribal Personnel Office in the following:

1. Identification of job openings, both actual and potential, and definitions of skill levels and training requirements necessary to qualify Indian workers.

2. Development, in consultation with the Director of Education and the appropriate staff agencies, of training plans and programs to meet the identified job requirements.

3. Development of current lists of available qualified workers for the various job categories.

**C.** The Tribal Personnel Office shall be responsible to develop and maintain a current skills bank, or inventory of unemployed Indian workers on the Reservation. The Tribal Economic Development Office shall coordinate closely with the Tribal Personnel Office and TERO in identifying actual and potential job opportunities resulting from economic development projects and activities.

**ENFORCEMENT GUIDELINES**
**FOR THE KEWEENAW BAY INDIAN COMMUNITY**
**TRIBAL EMPLOYMENT RIGHTS ORDINANCE (TERO)**

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**ENFORCEMENT GUIDELINES FOR THE**
**TRIBAL EMPLOYMENT RIGHTS ORDINANCE**

The following Guidelines are issued pursuant to the authority granted to the Keweenaw Bay Indian Tribal Employment Rights Office (hereinafter referred to as TERO) by the Keweenaw Bay Indian Community Tribal Employment Rights Ordinance. This Ordinance requires the preferential employment of Indians by all employers operating within the jurisdiction of the Keweenaw Bay Indian Community.

**1. Coverage**

These Guidelines shall be binding on all existing and future employers operating within the jurisdiction of the Keweenaw Bay Indian Community, L'Anse Reservation, Michigan (hereinafter referred to as the "Reservation").

"Employer" means any person, company, contractor, or other entity that is located within the jurisdiction of the Keweenaw Bay Indian Community, and includes any contractor or governmental agency, if that contractor is engaged in work within the jurisdiction of the Keweenaw Bay Indian Community.

An Employer is engaged in work within the jurisdiction of the Keweenaw Bay Indian Community if its employees spend a majority of their time performing work within the jurisdiction of the Tribe on a continuing basis. TERO shall have the right to phase in these requirements by employer classifications; for example, first year: construction contractors; second year: manufacturers, etc.

**2. Publication**

The obligation of employers to comply with Tribal Employment Rights requirements shall be made known to all existing and future employers. All bid announcements issued by any Tribal, federal, state or other public or private entity shall contain a statement that the successful bidder shall be obligated to comply with these Guide-lines and that a bidder may contact TERO to obtain additional information.

Those agencies or other entities responsible for issuing business permits within the Tribe's jurisdiction, or otherwise engaged in activities involving contact with prospective employers within the Tribe's jurisdiction, shall be responsible for informing such prospective employers of their obligations under these Guidelines.

Within one month of the effective date of these Guidelines, TERO shall send copies of the Guidelines to every employer presently operating within the Tribe's jurisdiction. It shall be the responsibility of TERO to send copies of any amendments or revisions of the Guidelines to all covered employers.

**3. Specific Indian Preference Obligations of Covered Employers**

**A. Minimum numerical goals and timetables for the employment of Indians**

TERO shall establish the minimum number of Indian persons that each employer must employ on its workforce during any year that its employees work within the Tribe's jurisdiction, for that employer to be in compliance with its Indian preference obligation.

The numerical goals shall be set for each craft, skill area, job classification, etc., used by the employer and shall include administrative, supervisory, professional and clerical categories.

The goals shall be expressed in terms of manhours of Indian employment as a percentage of the total manhours worked on the employer's workforce in that job classification; for example, no less than fifty percent (50%) of all carpenter manhours shall be worked by Indian carpenters. The goals shall be realistic and shall be based on surveys of the available Indian manhour pool and of projected employment opportunities.

For new employers, goals shall be established for the entire workforce. The employer shall meet with TERO at the earliest date possible before the employer actually begins work; for example, immediately after a bid is accepted and a contract signed.

The employer shall provide TERO with a precise list of the number and kinds of employees it projects it will need, including any and all job descriptions used by the employer. TERO shall then set specific goals and timetables for the employer after considering any special factors or circumstances that the employer wishes to present.

The employer shall incorporate the goals into its plan for complying with the Guidelines, as provided for in Paragraph 5 herein, and shall agree in writing to meet these goals. An employer who fails to provide such a written statement will not be permitted to commence work within the Tribe's jurisdiction. For existing employers within the Tribe's jurisdiction, the goals shall be a percentage of the new employees projected to be employed during the forthcoming year by that employer, commencing from the date of the first meeting between the employer and TERO. The existing employer shall agree to said goals in writing and they shall be incorporated into the plan, as provided for in Paragraph 5 herein.

For new and existing employers, the goals shall be reviewed by TERO no less than once a year and shall be revised as necessary to reflect changes in the number of potential Indian employees available or changes in the employer's hiring plans.

Each employer shall submit monthly reports to TERO on a form provided by TERO, indicating the number of Indians on its workforce, monthly hires, terminations, percentage of monthly manhours worked by its Indian employees, and such other information as requested by TERO. An employer who fails to submit monthly reports in a timely manner shall be subject to sanctions as provided in the Ordinance or in these Guidelines.

Each employer shall meet its minimum goals for the employment of Indians or shall demonstrate that it has made a reasonable and good faith effort to do so.

TERO shall have the right to issue a notice of non-compliance at any time when, based on reports submitted by the employer, site visits, or other evidence, TERO has reason to believe that the employer is not meeting, or is not making a reasonable and good faith effort to meet its goals. Upon receipt of such notice, an employer shall be entitled to a hearing as provided in Paragraph 7 herein. The burden of proof shall be on TERO to demonstrate that an employer has failed to meet its goals or is not making a reasonable and good faith effort to do so. The burden of proof then shifts to the employer.

*It shall be no excuse that the union or unions with which the employer has a collective bargaining agreement providing for exclusive referral, failed to refer Indians.*

An employer who is found to be in non-compliance because it failed or is failing to meet its goals or is unable to demonstrate that it has made a reasonable and good faith effort to do so, shall be subject to the sanctions provided for in the Ordinance or in Paragraph 8 herein.

**B. Training**

All employers, as requested by TERO, shall participate in training programs to assist Indians in becoming qualified in the various job descriptions and classifications used by the employer.

Employers engaged in construction shall employ the maximum number of trainees and apprentices possible. In no case shall the number be less than the minimum ratio of trainees to fully-qualified workers, as established by the Department of Labor, and generally the number shall be greater.

For all other employers, the ratio of trainees to fully-qualified workers shall be established after discussions with the employer.

All trainees or apprentices shall be Indian.

Employers with collective bargaining agreements with unions shall be required to obtain written agreements from their respective unions whereby the unions will agree to establish advanced apprenticeship and journey upgrade programs.

**C. Unions**

Employers who have collective bargaining agreements with unions shall be required to obtain written agreement from all signatory unions, said agreement stating that the union will comply with the Keweenaw Bay Indian Community employment preference requirements before the employer will be permitted to commence work within the Tribe's jurisdiction. Said agreements between the employer and its signatory unions shall be subject to the approval of TERO. The respective unions must agree: to give absolute employment preference to Indians in their job referral system, regardless on which referral list the respective individual Indian's name may be listed, for example, A, B, or C; to cooperate with the Tribal hiring hall, Tribal personnel office, or other pertinent hiring agency; to establish a procedural mechanism allowing Indians to retain their place on the union lists without requiring them to travel great distances on a regular basis, for example, telephone or mail registration/ reregistration, union sub-office on the Reservation, etc.; to establish advanced apprenticeship and journeyman upgrade programs; to indenture and refer only Indian apprentices to the employer; to ╥blanket in╙ to the union all Indians who qualify for journeyman status (and who wish to join a union); to grant temporary work permits to those who do not wish to join the union; and to meet such other requirements as TERO may deem necessary to insure Indian employment preference pursuant to the Ordinance and these Guidelines. The model Union Agreement provided at the end of these Guidelines is hereby incorporated herein by this reference.

**D. Job Qualification and Personnel Requirements**

An employer shall not use job qualification criteria or personnel requirements which serve as barriers to the employment of Indians or which are not required by business necessity.

An employer shall furnish TERO with copies of all application forms and interview forms, testing devices, and any and all other documents used for the purpose of hiring employees, including any and all documents used for the purpose of determining promotions, transfers, demotions or terminations, or otherwise affecting the employee's status with the employer.

The burden of proof shall be on TERO to demonstrate that job qualification criteria or personnel requirements are or may be barriers to Indian employment. The burden of proof shall then shift to the employer to demonstrate that said criteria or requirements are required by business necessity. If the employer fails to meet this burden of proof, it will be required to eliminate any and all criteria or requirements determined to be barriers to Indian employment.

Employers shall make reasonable accommodation for the Indian employee regarding the employee's cultural or religious beliefs, and TERO shall make a reasonable effort to counsel the Indian employee regarding his or her duties as an employee, or to provide or seek counseling services for said employee, as appropriate.

TERO shall be guided by the principles established by EEOC Guidelines, particularly 29CFR, Parts 1604 through 1607; however, TERO retains the right to implement any and all other requirements, under the law, deemed necessary to address employment barriers considered unique to Indian people or to this Reservation. When TERO and the employer are unable to reach an agreement on matters set forth in this paragraph, a hearing shall be held as provided in Paragraph 7 herein. The Business Committee shall make a determination on the issues and shall order such action or actions as deemed necessary to bring the employer into compliance with the requirements contained in said paragraph. The employer may appeal the Business Committee's decision under the procedures set forth in Paragraph 9 herein.

**E. Tribal Hiring Hall**

The employer may recruit and hire workers from whatever sources are available to him or her, and by whatever process he or she so chooses, provided, however, that he or she may not hire a non-Indian until he or she has given TERO a reasonable time to locate a qualified Indian. For the purpose of this section, a ╥reasonable time╨ shall be defined as follows:

1. For construction jobs, TERO shall have 48 hours to locate, and an additional 12 hours to refer, a qualified Indian, commencing from the time the employer communicates his or her request to the TERO office.

2. For all other types of employment, TERO shall have five (5) working days, commencing from the day the employer's request is communicated to the TERO office.

TERO may consider waiving these time period requirements upon a showing that said time periods impose an undue burden on the employer.

An employer who has a collective bargaining agreement with a union or unions shall not be required to follow this procedure, provided said union(s) agree to place on their referral lists all individuals called into them by the TERO office, pursuant to the Model Union Agreement incorporated herein.

If a union fails to meet its obligations herein, TERO reserves the right to require the employer to accept Indian referrals from sources other than the union.

Any non-Indian worker found to be employed in a job which was not first cleared through this hiring hall procedure shall be subject to summary removal from the job by TERO, and the employer shall be subject to a fine for each violation, pursuant to the Ordinance and these Guide-lines. The employer shall be entitled to a hearing and appeal, if appropriate, pursuant to the provisions of Paragraphs 7 and 9 herein.

**F. Layoffs**

An employer engaged in reducing its work force or otherwise laying off personnel shall not terminate an Indian worker if a non-Indian worker in the same craft is still employed. The non-Indian worker shall be terminated first as long as the Indian worker meets minimum qualifications for the job.

An employer engaged in reducing its work force or otherwise laying off personnel on a crew, shift, or other multiple-employee basis shall transfer qualified Indians to crews, shifts, etc., that will be retained, as long as there are non-Indians in the same craft employed elsewhere on the job site or employment location.

**G. Promotion**

The employer shall give Indians preferential consideration for all promotion opportunities and shall encourage its Indians employees to seek such opportunities.

For each supervisory or managerial position filled by a non-Indian, the employer shall file a report with TERO disclosing the names and addresses of all Indians that applied for the position, including reasons why they were not given the job and what efforts were made to inform Indian employees of the position.

**H. Summer Students**

Indians shall be given preference in the hiring for all positions classified as summer student help or otherwise referred to as student help.

The employer shall make a reasonable and good faith effort to promote after-school, summer, and vacation employment for Indian youth.

**I. Indian Preference In Hiring Employees**

The contactor/employer must give preference to qualified Indian applicants, for all new positions, job vacancies and negotiated positions. Order of preference shall be as follows:

1. In all projects or contracts where federal/state dollars are being used, the following order of preference applies:
   **a.** Keweenaw Bay Indian Community Members;
   **b.** Indians Enrolled in Other Federally Recognized Tribes.
2. Preference requirements in projects funded by the community, the following order of preference applies:
   **a.** Keweenaw Bay Indian Community members;
   **b.** KBIC descendents;
   **c.** Indians Enrolled in Other Federally Recognized Tribes;
   **d.** Spouses of Community members;
   **e**. All Indians.

**J. Indian Preference in Contracting and Subcontracting**

1. Employers shall give preference in the award of contracts and subcontracts to Tribal Organizations and/or Indian Owned Economic Enterprises. All Indian Owned Economic Enterprise contractors or subcontractors must be certified by the TERO office as being 51% owned, operated and Indian controlled. The contractor/employer must maintain a record of all solicitation of offers for subcontracts from Indian preference firms and/or steps taken to locate an acceptable Indian Preference firm. Compliance by subcontractors or suppliers is the ultimate responsibility of the prime contractor or employer.

**A.** Tribal Organizations shall mean "…the recognized governing body of any Indian Tribe; any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of it's activities…"

**B.** Certified Indian Owned Economic Enterprise shall mean, "…any Indian Owned…commercial, industrial or business activity established or organized for the purpose of profit: Provided, that such Indian Ownership shall constitute not less than 51 percent on the enterprise…"

2. Indian contract preference as provided for in this section shall apply to:
   **a.** All contracts and subcontracts, which are funded by the community;
   **b.** All contracts and subcontracts, which are federally funded.
   **c.** All subcontracts on direct federal contracts which are for the benefit of Indians and which therefore are covered by section 7 (B) of the Indian Self-Discrimination Act (P.L 93-638, 25 U.S.C 450e b).

3. Each employer/contractor shall comply with the following order of preference when awarding prime contracts or subcontracts:
   **a.** Tribal Organizations;
   **b.** Certified Indian Owned Economic Enterprises;
   **c.** All Others.

4. The Tribal Organization or the Certified Indian Owned Economic Enterprises shall be awarded the contract and/or subcontract provided that Tribal Organization or the Certified Indian Owned Economic Enterprises bid is the lowest responsive big or within the "Bid Percent" specified below of the lowest responsive bid when the bid is:

| **AT LEAST** | **but LESS THAN** | **BID PERCENT** |
|---|---|---|
| $000,000 | $100,000 | 10% |
| 100,000 | 200,000 | 9% |
| 200,000 | 300,000 | 8% |
| 300,000 | 400,000 | 7% |
| 400,000 | 500,000 | 6% |
| 500,000 | $1 million | 5% |
| $1 million | $2 million | 4% |
| $2 million | $3 million | 3% |
| $4 million | $7 million | 2% |

$7 million AND OVER 1.5% of lowest responsive bid, with no dollar limit

*Modifications to the enforcement Guidelines for Tribal Employment Rights Ordinance, Section 3.I. and Section 3.J.. authorized by the Keweenaw Bay Tribal Council on the 13th day of October, 2003. Modification to Section 3.I.. was authorized by the Keweenaw Bay Tribal Council on the 19th day of May 2005.*

**4. Subcontractors**

The Indian preferential employment requirements and obligations contained in the Ordinance and these Guidelines shall be binding on all subcontractors, regardless of their position with their employer-contractor, and shall be deemed a part of all resulting subcontract specifications.

The employer-contractor shall have the initial and primary responsibility of informing all subcontractors of the requirements and obligations contained in the Ordinance and set forth in these Guidelines, and for insuring that all subcontractors comply with said requirements and obligations.

TERO reserves the right to impose sanctions on the employer-contractor, as well as the subcontractor, in the event the subcontractor fails to comply.

**5. Compliance Plans**

From the effective date of these Guide-lines, no new employer may commence work within the jurisdiction of the Tribe until it has met with TERO and developed an acceptable plan for meeting its obligations under the Ordinance or these Guidelines.

Within six (6) months of the effective date of these Guidelines, every employer already operating within the Tribe's jurisdiction or otherwise engaged in employment within the Tribe's jurisdiction, shall have met with TERO and developed an acceptable plan for meeting its obligations under the Ordinance and these Guidelines.

**6. Reporting and On-Site Inspection**

Employers shall submit reports and such other information as requested by TERO.

TERO personnel shall have the right to make on-site inspections during regular working hours in order to monitor an employer's compliance with the Ordinance and these Guidelines.

TERO personnel shall have the right to inspect and copy all relevant records of any employer, of the employer's signatory unions, and of subcontractors; to speak with workers on the job site or employment location; and to engage in any further investigatory activity deemed necessary to promote the purposes of the Ordinance and these Guidelines.

All information disclosed to TERO or otherwise secured by TERO shall be kept confidential, unless disclosure is required pursuant to the procedures set forth in Paragraphs 7, 9 and 10 herein.

**7. Compliance and Hearing Procedures**

If the Director of TERO believes, or has reason to believe, that an employer subject to the requirements and obligations set forth in the Ordinance and these Guidelines has failed to comply with said requirements and obligations, the Director shall so notify the employer in writing, setting forth in detail the nature of the alleged violation or violations, and the date and time for a hearing before the Business Committee.

Hearing procedures shall comply with the requirements of due process of law, but shall not be bound by formal rules of evidence. The Business Committee shall have the right to subpoena witnesses and present evidence in the Tribe's behalf, to put witnesses under oath, to subpoena documents, and to take other steps to insure a complete and fair hearing on the issues.

The employer shall have the right to call witnesses and to present evidence for the purpose of demonstrating that the employer has made a reasonable and good faith effort to comply with the Ordinance and these Guidelines, or has complied with the requirements and obligations set forth therein, and therefore should not be subject to the imposition of sanctions.

On the basis of the evidence presented at the hearing and information secured by TERO, the Business Committee shall determine whether or not the employer has complied with its requirements and obligations, or has made a reasonable and good faith effort to do so. If the Business Committee determines that the employer is out of compliance, or has not made a reasonable and good faith effort to comply, the Business Committee shall impose one or more sanctions, as provided in the Ordinance and Paragraph 8 herein, and shall order the employer to take such corrective action as deemed necessary to remedy any resulting harm done to the Tribe or to individual Indians through the employer's failure to comply or to make a reasonable and good faith effort to comply.

TERO shall send written notice to the employer of the decision made by the Business Committee.

**8. Sanctions**

In the event an employer is found to be out of compliance with the requirements and obligations set forth in the Ordinance and these Guidelines, the Business Committee shall impose any or all of the following sanctions after considering any mitigating factors; for example, the employer's efforts to comply and to remedy any harm done by

its failure to comply:
**A.** Denial of the right to commence business within the Tribe's jurisdiction;
**B.** Imposition of monetary fines;
**C.** Suspension of the employer's operation until corrective action is taken or a plan for corrective action is developed;
**D.** Termination of the employer's operation;
**E.** Denial of the right to engage in any further business within the Tribe's jurisdiction;
**F.** Impose payment of backpay or such other and further relief, including but not limited to providing employment, promotions and training for individual Indians who were harmed by the employers actions or failures to act;
**G.** Summary removal of employees hired in violation of the Ordinance and these Guidelines;
**H**. Require the employer to make any and all changes in its procedures or policies deemed necessary to insure compliance with the requirements and obligations set forth in the Ordinance and these Guidelines;
**I.** Such other and further sanctions as deemed necessary to prevent other violations and to insure compliance herein.

**9. Appeals**
An employer shall have the right to appeal any decision of the Business Commit-tee of the Keweenaw Bay Tribal Court.
An appeal must be files within ten (10) days after receipt of notice of the Business Committee's decision. The Business Committee shall represent the interests of the Tribe during appeal.

**10. Individual, Group, Class Complaint Procedure**
Any Indian, group of Indians, or representatives of a class of Indians, who believe or have reason to believe that an employer has failed to comply with the Ordinance or these Guidelines, or who believe or have reason to believe that they have been discriminated against by an employer, as herein defined, because they are Indian, may file a complaint with TERO. Persons may file whether or not they can show that they were personally harmed by the employer's actions.
Upon receipt of any complaint, TERO shall conduct an investigation of the matters set forth in the complaint and the circumstances surrounding the allegations contained therein, and shall attempt to achieve an informal settlement of the dispute.
If voluntary conciliation and settlement cannot be achieved, the Business Commit-tee shall hold a hearing on the matter, shall make a determination, and shall order such relief as is necessary to provide an appropriate remedy for any Indian, group of Indians, or class of Indians harmed by the employer's actions or failure to act, by non-compliance, or by the employer's discriminatory behavior.
This decision shall be in writing and shall be sent to all parties involved. Either party shall have the right to appeal the decision of the Business Committee.
In all matters pertaining to the procedures set forth in this paragraph, including the appeal procedure, the requirements and procedural devices set forth in Paragraphs 7 and 9 shall apply.

**11. Purpose**
It is the express purpose and intent of these Guidelines to insure that preferential employment treatment is accorded the Indian people, pursuant to the Keweenaw Bay Indian Tribal Ordinance and nothing contained herein shall be construed or defined in a manner contrary thereto. All ambiguities shall be resolved in favor of the aforementioned stated purpose and intent.

**12. Amendments and Revisions**
The Tribal Council reserves the right to amend or revise these Guidelines from time to time within the scope of its authority, and as further authorized by the Keweenaw Bay Tribal Council.
*In Full Force and Effect Beginning the 2nd Day of February, 1982*

# KEWEENAW BAY INDIAN COMMUNITY

OFFICE OF TRIBAL EMPLOYMENT RIGHTS/EQUAL EMPLOYMENT OPPORTUNITY
*16429 BEARTOWN ROAD • BARAGA, MICHIGAN • 49908*
*PHONE: 906-353-4167 • • FAX: 906-353-6166*


## TERO COMPLIANCE PLAN & AGREEMENT:

_____**Main Contractor** _____**Sub Contractor**

Name: _____

Address: _____

Contact person: _____Title:_____

Phone: _____Fax:_____Cell:_____Office:_____

Project Name: _____ Project No: _____

Location: _____

Project Owner: _____Phone:_____

Project Funding Agency: _____

Funding Agency Contact: _____

Project Cost: _____TERO Compliance Deposit _____Total:_____

Project Start Date: _____Completion Date: _____

Pre-Construction Meeting Date: _____ Sub-Contractor Meeting (Place, Days, and Times): _____

_____

**§105 A. Compliance Deposit:**

1. Every covered construction contract or with a contract of $100,000 or more shall make a one-time deposit of **one half of one percent (0.5%) of the total amount of contract.** The TERO compliance deposit shall be paid by the contractor/employer prior to commencing work on the Reservation. The deposit may be paid in installments. The checks are to be made payable to KBIC TERO and addressed to:

**KBIC TERO**
**16429 Beartown Road**
**Baraga, MI 49908**

**Please indicate below the TERO fee payment arrangements:**

_____ Lump Sum _____ Approved Installment Payment Plan

**Compliance Deposit Paid by:** _____ Main Contractor _____ Sub Contractor

**Provide a numerical hiring goals and timetables that specify the number of Indians the employer will hire by craft or skill level or specify a set percentage of hiring goals by craft or skill level:**

E-Mail: debbie.picciano@kbic-nsn.gov

MONTHLY TERO REPORTS

List all permanent key employees you are requesting for the project(s). A key employee is defined as: "an employee that is by business necessity, essential to the successful operation of the project and one without whom the project or the business would suffer substantial financial or time loss".

**KEY EMPLOYEES**

| Name | Job Title | Rate Of Pay | Length of Employment | Attach Proof TRIBAL (Y/N) |
|---|---|---|---|---|
| | | | | |
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**JOB ORDER:** If the TERO Jobs Skills Bank has qualified persons, they are required to receive preference in hiring to comply with the TERO law.

| Job Title | Number Of Positions | Rate Of Pay | Date From To |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

License Required: _____CDL:_____UA:_____
Skills/Experience: _____
Foreman to Contact/Cell: _____
_____

**Do you or your sub-contractor have a collective bargaining agreement with one or more unions?**

[ ] YES [ ] NO

If yes, please attach a written agreement from said unions indicating that they (Union) will comply with Indian Preference requirements.

**LIST OF SUBCONTRACTORS: All Subcontractors need a Compliance Plan**

TERO Certified Business that are qualified and come within required percentage as stated in the TERO Guidelines of the low bid will be provided negotiated preference.

| Company | Contact Person | Phone# | Native (Y/N) |
|---|---|---|---|
| | | | |
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| | | | |

**Attach additional sheets if needed**

**What wage scale will be used (please explain or submit wage scale)?**

_____

**Tribal Employment Rights Ordinance Received:**

[ ◯ YES [ ◯ NO [ ◯ Received prior to project

**Understanding and Acceptance**

I understand that Certified Payroll shall be submitted on a timely manner for each contractor/subcontractor to the TERO Office on a monthly basis or as agreed upon.

On behalf of _____, I hereby certify that I have received and understand the Keweenaw Bay Indian Community Tribal Employment Rights Ordinance (TERO) and Guidelines as set forth in this TERO Compliance Plan and Agreement, and hereby agree to accept the responsibility of compliance with the described obligations and requirements.

_____ _____

**Printed Name** **Title**

_____ _____

**Authorized Signature for Employer/Contractor/Sub Contractor** **Date**

**Notice To Proceed:**

The attached TERO Compliance Plan and Agreement has been received, reviewed and is fully acceptable. On behalf of the Keweenaw Bay Indian Community TERO, authorization to begin work on the above described project is hereby granted.

_____ _____

**Debra L. Picciano, TERO Director** **Date**

KBIC Office of Tribal Employment Rights
Compliance Review – Monthly Reports

EMPLOYER _____ DEPARTMENT _____

REPORT MONTH:_____ PROJECT:_____

| EMPLOYEE NAME | SEX M/F | RACE/ETHNIC ORIGIN (CODE) | CLASSIFICATION | HOURLY WAGE | HOURS WORKED | | | | NOTES |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | native | Non native | | | |
| | | | | | | | | | |
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**RACE/ETHNIC ORIGIN CODE**: **WH** (White); **BL** (Black); **AS** (Asian/Pacific Islander); **NA** (Native American Indian); **HP** (Hispanic)

KBIC Office of Tribal Employment Rights
Compliance Review – Termination Information
(Any action which removes employee from payroll)

EMPLOYER _____ DEPARTMENT _____

| EMPLOYEE NAME | SEX M/F | RACE/ETHNIC ORIGIN (CODE) | CLASSIFICATION | HOURLY WAGE AT TIME OF TERMINATION | TYPE OF TERMINATION (ENTER DATE IN ONE COLUMN) | | | | REASON FOR TERMINATION |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | LAY OFF | TRANS | INVOL TERM | VOL TERM | |
| | | | | | | | | | |
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**RACE/ETHNIC ORIGIN CODE**: **WH** (White); **BL** (Black); **AS** (Asian/Pacific Islander); **NA** (Native American Indian); **HP** (Hispanic)

Enter date in whichever column is appropriate under “Type of Termination” – no more than one date per name. Under “Reason” enter brief explanation as “no show”, “project complete”, “moved to other project”, “took other job”, etc.

**Keweenaw Bay Indian Community**
**Tribal Employment Rights (TERO/EEO)**
**Debra L. Picciano, Director**
***Tribal Center, 16429 Beartown Road, Baraga, MI 49908***
***(906) 353-4167*** ***Fax 353-6166***
E-Mail: debbie.picciano@kbic-nsn.gov

# Monthly TERO Reporting Form

**Employer/Company:** _____

**Project:** _____

**Reporting Month:** _____ **Year:** _____

**General Comments:** _____

## MONTHLY TERO REPORTS

| | | | |
|---|---|---|---|
| **A:** | **Number of New Hires this month:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **B:** | **Number of Hires to date:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **C:** | **Promotions:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **D:** | **Terminations:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **E:** | **Layoffs:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **F:** | **Disciplinary Actions:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **G:** | **Number of Applications this month:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **H:** | **Number of Training Opportunities:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **I:** | **Number of Summer Students Hired:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **J:** | **Number of Trainees/Apprentices:** | **TOTAL:** _____ | **Indian/Native:** _____ |
| **K:** | **Number of Contractor/Sub Referrals:** | **TOTAL:** _____ | **Indian/Native:** _____ |

**Please attach a certified statement of the current months wages, hour and payroll reports; A listing of all new job descriptions used by the employer; and a list of all new contractors/subcontractors for new projects, including the name of the company; area of work; contact person, address, and phone number.**

_____ _____

**Employers Signature/Title** **Date**

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section l(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section l(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at *http://www.dol.gov/esa/whd/forms/wh347instr.htm* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

**(2)** That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**(iii)** The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant ',to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than $5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds $100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds $100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

# WAGE DECISION

"General Decision Number: MI20220001 09/02/2022

Superseded General Decision Number: MI20210001

State: Michigan

Construction Types: Highway (Highway, Airport & Bridge xxxxx and Sewer/Incid. to Hwy.)

Counties: Michigan Statewide.

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

| | |
|---|---|
| If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: | . Executive Order 14026 generally applies to the contract.<br>. The contractor must pay all covered workers at least $15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022. |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022: | . Executive Order 13658 generally applies to the contract.<br>. The contractor must pay all covered workers at least $11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022. |

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for

performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at https://www.dol.gov/agencies/whd/government-contracts.

| Modification Number | Publication Date |
|---|---|
| 0 | 01/07/2022 |
| 1 | 01/21/2022 |
| 2 | 02/11/2022 |
| 3 | 02/25/2022 |
| 4 | 03/25/2022 |
| 5 | 04/08/2022 |
| 6 | 04/15/2022 |
| 7 | 04/29/2022 |
| 8 | 05/06/2022 |
| 9 | 06/03/2022 |
| 10 | 06/10/2022 |
| 11 | 07/15/2022 |
| 12 | 07/29/2022 |
| 13 | 08/12/2022 |
| 14 | 09/02/2022 |

CARP0004-004 06/01/2019

REMAINDER OF STATE

| | Rates | Fringes |
|---|---|---|
| CARPENTER ( Piledriver)..... | $ 27.62 | 20.59 |

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CARP0004-005 06/01/2018

LIVINGSTON (Townships of Brighton, Deerfield, Genoa, Hartland, Oceola & Tyrone), MACOMB, MONROE, OAKLAND, SANILAC, ST. CLAIR AND WAYNE COUNTIES

| | Rates | Fringes |
|---|---|---|
| CARPENTER (Piledriver)..... | $ 30.50 | 27.28 |

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ELEC0017-005 06/01/2022

STATEWIDE

| | Rates | Fringes |
|---|---|---|

Line Construction

| | | |
|---|---|---|
| Groundman/Driver | $ 29.57 | 7.20+32% |
| Journeyman Signal Tech, Communications Tech, Tower Tech & Fiber Optic Splicers | $ 43.90 | 7.20+32% |
| Journeyman Specialist | $ 50.49 | 7.20+32% |
| Operator A | $ 37.13 | 7.20+32% |
| Operator B | $ 34.67 | 7.20+32% |

Classifications

Journeyman Specialist: Refers to a crew of only one person working alone.
Operator A: Shall be proficient in operating all power equipment including: Backhoe, Excavator, Directional Bore and Boom/Digger truck.
Operator B: Shall be proficient in operating any 2 of the above mentioned pieces of equipment listed under Operator A.

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ENGI0324-003 06/01/2022

ALCONA, ALPENA, ARENAC, BAY, CHEBOYGAN, CLARE, CLINTON, CRAWFORD, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, IOSCO, ISABELLA, JACKSON, LAPEER, LENAWEE, LIVINGSTON, MACOMB, MIDLAND, MONROE, MONTMORENCY, OAKLAND, OGEMAW, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLAIR, SANILAC, SHIAWASSEE, TUSCOLA, WASHTENAW AND WAYNE COUNTIES:

| | Rates | Fringes |
|---|---|---|
| OPERATOR: Power Equipment (Steel Erection) | | |
| GROUP 1 | $ 51.02 | 24.85 |
| GROUP 2 | $ 52.02 | 24.85 |
| GROUP 3 | $ 49.52 | 24.85 |
| GROUP 4 | $ 50.52 | 24.85 |
| GROUP 5 | $ 48.02 | 24.85 |
| GROUP 6 | $ 49.02 | 24.85 |
| GROUP 7 | $ 47.75 | 24.85 |
| GROUP 8 | $ 48.75 | 24.85 |
| GROUP 9 | $ 47.30 | 24.85 |
| GROUP 10 | $ 48.30 | 24.85 |
| GROUP 11 | $ 46.57 | 24.85 |
| GROUP 12 | $ 47.57 | 24.85 |
| GROUP 13 | $ 46.21 | 24.85 |
| GROUP 14 | $ 47.21 | 24.85 |
| GROUP 15 | $ 45.57 | 24.85 |
| GROUP 16 | $ 42.37 | 24.85 |

| | | |
|---|---|---|
| GROUP 17 | $ 27.89 | 12.00 |
| GROUP 18 | $ 31.38 | 12.00 |

FOOTNOTE:

Paid Holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Engineer when operating combination of boom and jib 400' or longer

GROUP 2: Engineer when operating combination of boom and jib 400' or longer on a crane that requires an oiler

GROUP 3: Engineer when operating combination of boom and jib 300' or longer

GROUP 4: Engineer when operating combination of boom and jib 300' or longer on a crane that requires an oiler

GROUP 5: Engineer when operating combination of boom and jib 220' or longer

GROUP 6: Engineer when operating combination of boom and jib 220' or longer on a crane that requires an oiler

GROUP 7: Engineer when operating combination of boom and jib 140' or longer

GROUP 8: Engineer when operating combination of boom and jib 140' or longer on a crane that requires an oiler

GROUP 9: Tower crane & derrick operator (where operator's work station is 50 ft. or more above first sub-level)

GROUP 10: Tower crane & derrick operator (where operator's work station is 50 ft. or more above first sub-level) on a crane that requires an oiler

GROUP 11: Engineer when operating combination of boom and jib 120' or longer

GROUP 12: Engineer when operating combination of boom and jib 120' or longer on a crane that requires an oiler

GROUP 13: Crane operator; job mechanic and 3 drum hoist and excavator

GROUP 14: Crane operator on a crane that requires an oiler

GROUP 15: Hoisting operator; 2 drum hoist and rubber tired backhoe

GROUP 16: Forklift and 1 drum hoist

GROUP 17: Compressor or welder operator

GROUP 18: Oiler

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ENGI0324-004 06/01/2022

AREA 1: ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, EATON, HILLSDALE, IONIA, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MECOSTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA, OTTAWA, ST. JOSEPH, VAN BUREN

AREA 2: ANTRIM, BENZIE, CHARLEVOIX, EMMET, GRAND TRAVERSE, KALKASKA, LEELANAU, MISSAUKEE AND WEXFORD COUNTIES:

| | Rates | Fringes |
|---|---|---|
| OPERATOR: Power Equipment (Steel Erection) | | |
| AREA 1 | | |
| GROUP 1 | $ 48.02 | 24.85 |
| GROUP 2 | $ 44.75 | 24.85 |
| GROUP 3 | $ 46.21 | 24.85 |
| GROUP 4 | $ 42.37 | 24.85 |
| GROUP 5 | $ 27.89 | 12.00 |
| GROUP 6 | $ 31.38 | 24.85 |
| AREA 2 | | |
| GROUP 1 | $ 51.02 | 24.85 |
| GROUP 2 | $ 47.75 | 24.85 |
| GROUP 3 | $ 46.21 | 24.85 |
| GROUP 4 | $ 42.37 | 24.85 |
| GROUP 5 | $ 27.89 | 12.00 |
| GROUP 6 | $ 31.38 | 24.85 |

FOOTNOTES:

Crane operator with main boom and jib 300' or longer: $1.50 additional to the group 1 rate. Crane operator with main boom and jib 400' or longer: $3.00 additional to the group 1 rate.
PAID HOLIDAYS: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS:

GROUP 1: Crane Operator with main boom & jib 400', 300', or 220' or longer.

GROUP 2: Crane Operator with main boom & jib 140' or longer, Tower Crane; Gantry Crane; Whirley Derrick.

GROUP 3: Regular Equipment Operator, Crane, Dozer, Loader, Hoist, Straddle Wagon, Mechanic, Grader and Hydro Excavator.

GROUP 4: Air Tugger (single drum), Material Hoist Pump 6"" or over, Elevators, Brokk Concrete Breaker.

GROUP 5: Air Compressor, Welder, Generators, Conveyors

GROUP 6: Oiler and fire tender

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ENGI0324-005 09/01/2021

AREA 1: GENESEE, LAPEER, LIVINGSTON, MACOMB, MONROE, OAKLAND, ST. CLAIR, WASHTENAW AND WAYNE COUNTIES

AREA 2: ALCONA, ALLEGAN, ALGER, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KWEENAW, LAKE, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, SANILAC, SCHOOLCRAFT, SHIAWASSEE, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|---|---|
| OPERATOR: Power Equipment (Underground construction (including sewer)) | | |
| AREA 1: | | |
| GROUP 1 | $ 37.63 | 24.85 |
| GROUP 2 | $ 32.90 | 24.85 |
| GROUP 3 | $ 32.17 | 24.85 |
| GROUP 4 | $ 31.60 | 24.85 |
| GROUP 5 | $ 23.15 | 12.05 |
| AREA 2: | | |
| GROUP 1 | $ 35.92 | 24.85 |
| GROUP 2 | $ 31.03 | 24.85 |

| | | |
|---|---|---|
| GROUP 3 | $ 30.53 | 24.85 |
| GROUP 4 | $ 30.25 | 24.85 |
| GROUP 5 | $ 23.15 | 12.05 |

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Backfiller tamper; Backhoe; Batch plant operator (concrete); Clamshell; Concrete paver (2 drums or larger); Conveyor loader (Euclid type); Crane (crawler, truck type or pile driving); Dozer; Dragline; Elevating grader; Endloader; Gradall (and similar type machine); Grader; Mechanic; Power shovel; Roller (asphalt); Scraper (self-propelled or tractor drawn); Side boom tractor (type D-4 or equivalent and larger); Slip form paver; Slope paver; Trencher (over 8 ft. digging capacity); Well drilling rig; Concrete pump with boom operator; Hydro Excavator

GROUP 2: Boom truck (power swing type boom); Crusher; Hoist; Pump (1 or more - 6-in. discharge or larger - gas or diesel- powered or powered by generator of 300 amperes or more - inclusive of generator); Side boom tractor (smaller than type D-4 or equivalent); Tractor (pneu-tired, other than backhoe or front end loader); Trencher (8-ft. digging capacity and smaller);Vac Truck and  End dump operator;

GROUP 3: Air compressors (600 cfm or larger); Air compressors (2 or more-less than 600 cfm); Boom truck (non-swinging, non- powered type boom); Concrete breaker (self-propelled or truck mounted - includes compressor); Concrete paver (1 drum-l/2 yd. or larger); Elevator (other than passenger); Maintenance person; Pump (2 or more-4-in. up to 6-in. discharge-gas or diesel powered - excluding submersible pumps); Pumpcrete machine (and similar equipment); Wagon drill (multiple); Welding machine or generator (2 or more-300 amp. or larger - gas or diesel powered)

GROUP 4: Boiler; Concrete saw (40 hp or over); Curing machine (self-propelled); Farm tractor (with attachment); Finishing machine (concrete); Hydraulic pipe pushing machine; Mulching equipment; Pumps (2 or more up to 4-in. discharge, if used 3 hours or more a day, gas or diesel powered - excluding submersible pumps); Roller (other than asphalt); Stump remover; Trencher (service); Vibrating compaction equipment, self-propelled (6 ft. wide or over); Sweeper (Wayne type); Water wagon and Extend-a boom forklift

Group 5: Fire Person, Oiler

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* ENGI0324-006 06/01/2022

GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW, WAYNE, ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|---|---|
| Power equipment operators: (AIRPORT, BRIDGE & HIGHWAY CONSTRUCTION) | | |
| GROUP 1 | $ 38.86 | 24.85 |
| GROUP 2 | $ 32.13 | 24.85 |
| GROUP 3 | $ 31.57 | 24.85 |
| GROUP 4 | $ 31.40 | 24.85 |

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Asphalt plant operator; Crane operator (does not include work on bridge construction projects when the crane operator is erecting structural components); Dragline operator; Shovel operator; Locomotive operator; Paver operator (5 bags or more); Elevating grader operator; Pile driving operator; Roller operator (asphalt); Blade grader operator; Trenching machine operator (ladder or wheel type); Auto-grader; Slip form paver; Self-propelled or tractor-drawn scraper; Conveyor loader operator (Euclid type); Endloader operator (1 yd. capacity and over); Bulldozer; Hoisting engineer; Tractor operator; Finishing machine operator (asphalt); Mechanic; Pump operator (6-in. discharge or over, gas, diesel powered or generator of 300 amp. or larger); Shouldering or gravel distributing machine operator (self- propelled); Backhoe (with over 3/8 yd. bucket); Side boom tractor (type D-4 or equivalent or larger); Tube finisher (slip form paving); Gradall (and similar type machine); Asphalt paver (self- propelled); Asphalt planer (self-propelled); Batch plant (concrete-central mix); Slurry machine (asphalt); Concrete pump (3 in. and over); Roto-mill; Swinging boom truck (over 12 ton capacity); Hydro demolisher (water blaster); Farm-type tractor with attached pan; Vacuum truck operator;

Batch Plant (concrete dry batch); Concrete Saw Operator (40h.p. or over; Tractor Operator (farm type); Finishing Machine Operator (concrete); Grader Operator (self-propelled fine grade or form (concrete)).

GROUP 2: Screening plant operator; Washing plant operator; Crusher operator; Backhoe (with 3/8 yd. bucket or less); Side boom tractor (smaller than D-4 type or equivalent); Sweeper (Wayne type and similar equipment); Greese Truck; Air Compressor Operator (600 cu.ft. per min or more); Air Compressor Operator (two or more, less than 600 cfm);

GROUP 3: Boiler fire tender; Tractor operator (farm type with attachment); Concrete Breaker; Wagon Drill Operator;

GROUP 4: Oiler; Fire tender; Trencher (service); Flexplane operator; Cleftplane operator; Boom or winch hoist truck operator; Endloader operator *under 1 yd. capacity); Roller Operator (other than asphalt); Curing equipment operator (self-propelled); Power bin operator; Plant drier (6 ft. wide or over); Guard post driver operator (power driven); All mulching equipment; Stump remover; Concrete pump (under 3-in.); Mesh installer (self-propelled); End dump; Skid Steer.

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ENGI0324-007 05/01/2022

ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES:

| | Rates | Fringes |
|---|---|---|
| OPERATOR: Power Equipment (Steel Erection) | | |
| Compressor, welder and forklift | $ 37.40 | 24.60 |
| Crane operator, main boom & jib 120' or longer | $ 43.87 | 24.60 |
| Crane operator, main boom & jib 140' or longer | $ 44.17 | 24.60 |
| Crane operator, main boom & jib 220' or longer | $ 44.17 | 24.60 |
| Mechanic with truck and tools | $ 43.00 | 24.60 |
| Oiler and fireman | $ 35.86 | 24.60 |
| Regular operator | $ 41.22 | 24.60 |

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ENGI0324-008 10/01/2020

ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GENESEE, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE, MACKINAC, MACOMB, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MONROE, MUSKEGON, NEWAYGO, OAKLAND, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA, VAN BUREN, WASHTENAW, WAYNE AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|---|---|
| OPERATOR: Power Equipment (Sewer Relining) | | |
| GROUP 1 | $ 35.37 | 14.31 |
| GROUP 2 | $ 33.33 | 14.31 |

SEWER RELINING CLASSIFICATIONS

GROUP 1: Operation of audio-visual closed circuit TV system, including remote in-ground cutter and other equipment used in connection with the CCTV system

GROUP 2: Operation of hot water heaters and circulation systems, water jetters and vacuum and mechanical debris removal systems

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ENGI0325-012 05/01/2022

| | Rates | Fringes |
|---|---|---|
| Power equipment operators - gas distribution and duct installation work: | | |
| GROUP 1 | $ 34.83 | 24.85 |
| GROUP 2 | $ 32.55 | 24.85 |

SCOPE OF WORK: The construction, installation, treating and reconditioning of pipelines transporting gas vapors within cities, towns, subdivisions, suburban areas, or within private property boundaries, up to and including private meter settings of private industrial, governmental or other premises, more commonly referred to as ""distribution work,"" starting from the first metering station, connection,

similar or related facility, of the main or cross country pipeline and including duct installation.

Group 1: Backhoe, crane, grader, mechanic, dozer (D-6 equivalent or larger), side boom (D-4 equivalent or larger), trencher(except service), endloader (2 yd. capacity or greater).

GROUP 2: Dozer (less than D-6 equivalent), endloader (under 2 yd. capacity), side boom (under D-4 capacity), backfiller, pumps (1 or 2 of 6-inch discharge or greater), boom truck (with powered boom), tractor (wheel type other than backhoe or front endloader). Tamper (self-propelled), boom truck (with non-powered boom), concrete saw (20 hp or larger), pumps (2 to 4 under 6-inch discharge), compressor (2 or more or when one is used continuously into the second day) and trencher(service). Oiler, hydraulic pipe pushing machine, grease person and hydrostatic testing operator.

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* IRON0008-007 06/01/2022

ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES:

| | Rates | Fringes |
|---|---|---|
| Ironworker - pre-engineered metal building erector | $ 23.70 | 6.95 |
| IRONWORKER | | |
| General contracts $10,000,000 or greater | $ 38.14 | 28.70 |
| General contracts less than $10,000,000 | $ 38.14 | 28.70 |

Paid Holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day & Christmas Day.

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IRON0025-002 06/01/2021

ALCONA, ALPENA, ARENAC, BAY, CHEBOYGAN, CLARE, CLINTON, CRAWFORD, GENESEE, GLADWIN, GRATIOT, HURON, INGHAM, IOSCO, ISABELLA, JACKSON, LAPEER, LIVINGSTON, MACOMB, MIDLAND, MONTMORENCY, OAKLAND, OGEMAW, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW, SANILAC, SHIAWASSEE, ST. CLAIR, TUSCOLA, WASHTENAW AND WAYNE COUNTIES:

| | Rates | Fringes |
|---|---|---|
| Ironworker - pre-engineered metal building erector | | |
| Alcona, Alpena, Arenac, Cheboygan, Clare, Clinton, Crawford, Gladwin, Gratiot, Huron, Ingham, Iosco, Isabella, Jackson, Lapeer, Livingston (west of Burkhardt Road), Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Sanilac, Shiawassee, Tuscola & Washtenaw (west of U.S. 23) | $ 24.26 | 22.11 |
| Bay, Genesee, Lapeer, Livingston (east of Burkhardt Road), Macomb, Midland, Oakland, Saginaw, St. Clair, The University of Michigan, Washtenaw (east of U.S. 23) & Wayne | $ 25.48 | 23.11 |
| IRONWORKER | | |
| Ornamental and Structural | $ 36.77 | 29.03 |
| Reinforcing | $ 32.99 | 30.76 |

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IRON0055-005 07/01/2022

LENAWEE AND MONROE COUNTIES:

| | Rates | Fringes |
|---|---|---|
| IRONWORKER | | |
| Pre-engineered metal buildings | $ 23.59 | 19.35 |
| All other work | $ 33.00 | 27.20 |

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IRON0292-003 06/01/2020

BERRIEN AND CASS COUNTIES:

| | Rates | Fringes |
|---|---|---|
| IRONWORKER (Including pre-engineered metal building erector) | $ 31.75 | 22.84 |

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IRON0340-001 06/19/2017

ALLEGAN, ANTRIM, BARRY, BENZIE, BRANCH, CALHOUN, CHARLEVOIX,

EATON, EMMET, GRAND TRAVERSE, HILLSDALE, IONIA, KALAMAZOO, KALKASKA, KENT, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MISSAUKEE, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA, OTTAWA, ST. JOSEPH, VAN BUREN AND WEXFORD COUNTIES:

| | Rates | Fringes |
|---|---|---|
| IRONWORKER (Including pre-engineered metal building erector) | $ 24.43 | 24.67 |

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LABO0005-006 10/01/2020

| | Rates | Fringes |
|---|---|---|
| Laborers - hazardous waste abatement: (ALCONA, ALPENA, ANTRIM, BENZIE, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, IOSCO, KALKASKA, LEELANAU, MISSAUKEE, MONTMORENCY, OSCODA, OTSEGO, PRESQUE ISLE AND WEXFORD COUNTIES - Zone 10) | | |
| Levels A, B or C | $ 17.45 | 12.75 |
| class b | $ 18.64 | 12.90 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D | $ 16.45 | 12.75 |
| class a | $ 17.64 | 12.90 |
| Zone 10 | | |
| Laborers - hazardous waste abatement: (ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES - Zone 11) | | |
| Levels A, B or C | $ 23.58 | 12.90 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; | | |
| Also, Level D | $ 22.58 | 12.90 |

Laborers - hazardous waste abatement: (ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, IONIA COUNTY (except the city of Portland); KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MECOSTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OSCEOLA, OTTAWA, ST. JOSEPH AND VAN BUREN COUNTIES - Zone 9)

| | | |
|---|---|---|
| Levels A, B or C | $ 21.80 | 12.90 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; Also, Level D | $ 20.80 | 12.90 |

Laborers - hazardous waste abatement: (ARENAC, BAY, CLARE, GLADWIN, GRATIOT, HURON, ISABELLA, MIDLAND, OGEMAW, ROSCOMMON, SAGINAW AND TUSCOLA COUNTIES - Zone 8)

| | | |
|---|---|---|
| Levels A, B or C | $ 21.39 | 12.90 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; Also, Level D | $ 20.80 | 12.90 |

Laborers - hazardous waste abatement: (CLINTON, EATON AND INGHAM COUNTIES; IONIA COUNTY (City of Portland); LIVINGSTON COUNTY (west of Oak Grove Rd., including the City of Howell) - Zone 6)

| | | |
|---|---|---|
| Levels A, B or C | $ 25.64 | 12.90 |
| Work performed in conjunction with site preparation not requiring the use of personal protective equipment; Also, Level D | $ 24.64 | 12.90 |

Laborers - hazardous waste abatement: (GENESEE, LAPEER AND SHIAWASSEE COUNTIES - Zone 7)

| | | |
|---|---|---|
| Levels A, B or C | $ 24.20 | 13.80 |
| Work performed in | | |

conjunction with site
preparation not requiring
the use of personal
protective equipment;
Also, Level D.....$ 23.20 13.80
Laborers - hazardous waste
abatement: (HILLSDALE,
JACKSON AND LENAWEE COUNTIES
- Zone 4)
Levels A, B or C.....$ 25.17 12.90
Work performed in
conjunction with site
preparation not requiring
the use of personal
protective equipment;
Also, Level D.....$ 24.17 12.90
Laborers - hazardous waste
abatement: (LIVINGSTON COUNTY
(east of Oak Grove Rd. and
south of M-59, excluding the
city of Howell); AND
WASHTENAW COUNTY - Zone 3)
Levels A, B or C.....$ 29.93 14.20
Work performed in
conjunction with site
preparation not requiring
the use of personal
protective equipment;
Also, Level D.....$ 28.93 14.20
Laborers - hazardous waste
abatement: (MACOMB AND WAYNE
COUNTIES - Zone 1)
Levels A, B or C.....$ 29.93 16.90
Work performed in
conjunction with site
preparation not requiring
the use of personal
protective equipment;
Also, Level D.....$ 28.93 16.90
Laborers - hazardous waste
abatement: (MONROE COUNTY -
Zone 4)
Levels A, B or C.....$ 31.75 14.90
Work performed in
conjunction with site
preparation not requiring
the use of personal
protective equipment;
Also, Level D.....$ 31.75 14.90
Laborers - hazardous waste
abatement: (OAKLAND COUNTY

and the Northeast portion of
LIVINGSTON COUNTY bordered by
Oak Grove Road on the West
and M-59 on the South - Zone
2)
     Level A, B, C.....$ 29.93 16.90
     Work performed in
     conjunction with site
     preparation not requiring
     the use of personal
     protective equipment;
     Also, Level D.....$ 28.93 16.90
Laborers - hazardous waste
abatement: (SANILAC AND ST.
CLAIR COUNTIES - Zone 5)
     Levels A, B or C.....$ 25.75 16.35
     Work performed in
     conjunction with site
     preparation not requiring
     the use of personal
     protective equipment;
     Also, Level D.....$ 24.75 16.35

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LABO0259-001 09/01/2021

AREA 1: MACOMB, OAKLAND AND WAYNE COUNTIES
AREA 2: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GENESEE, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONROE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA, VAN BUREN, WASHTENAW AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|---|---|
| Laborers - tunnel, shaft and caisson: | | |
| AREA 1 | | |
| GROUP 1 | $ 23.62 | 16.95 |
| GROUP 2 | $ 23.73 | 19.95 |
| GROUP 3 | $ 23.79 | 16.95 |
| GROUP 4 | $ 23.97 | 16.95 |
| GROUP 5 | $ 24.22 | 16.95 |

| | | |
|---|---|---|
| GROUP 6 | $ 24.55 | 16.95 |
| GROUP 7 | $ 17.83 | 16.95 |
| AREA 2 | | |
| GROUP 1 | $ 25.15 | 12.95 |
| GROUP 2 | $ 25.24 | 12.95 |
| GROUP 3 | $ 25.34 | 12.95 |
| GROUP 4 | $ 25.50 | 12.95 |
| GROUP 5 | $ 25.76 | 12.95 |
| GROUP 6 | $ 26.07 | 12.95 |
| GROUP 7 | $ 18.34 | 12.95 |

SCOPE OF WORK: Tunnel, shaft and caisson work of every type and description and all operations incidental thereto, including, but not limited to, shafts and tunnels for sewers, water, subways, transportation, diversion, sewerage, caverns, shelters, aquafers, reservoirs, missile silos and steel sheeting for underground construction.

TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Tunnel, shaft and caisson laborer, dump, shanty, hog house tender, testing (on gas) and watchman

GROUP 2: Manhole, headwall, catch basin builder, bricklayer tender, mortar machine and material mixer

GROUP 3: Air tool operator (jackhammer, bush hammer and grinder), first bottom, second bottom, cage tender, car pusher, carrier, concrete, concrete form, concrete repair, cement invert laborer, cement finisher, concrete shoveler, conveyor, floor, gasoline and electric tool operator, gunite, grout operator, welder, heading dinky person, inside lock tender, pea gravel operator, pump, outside lock tender, scaffold, top signal person, switch person, track, tugger, utility person, vibrator, winch operator, pipe jacking, wagon drill and air track operator and concrete saw operator (under 40 h.p.)

GROUP 4: Tunnel, shaft and caisson mucker, bracer, liner plate, long haul dinky driver and well point

GROUP 5: Tunnel, shaft and caisson miner, drill runner, key board operator, power knife operator, reinforced steel or mesh (e.g. wire mesh, steel mats, dowel bars, etc.)

GROUP 6: Dynamite and powder

GROUP 7: Restoration laborer, seeding, sodding, planting, cutting, mulching and top soil grading; and the restoration of property such as replacing mailboxes, wood chips, planter boxes, flagstones, etc.

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LABO0334-001 09/01/2021

| | Rates | Fringes |
|---|---|---|
| Laborers - open cut: | | |
| ZONE 1 - MACOMB, OAKLAND AND WAYNE COUNTIES: | | |
| GROUP 1 | $ 23.47 | 16.95 |
| GROUP 2 | $ 23.58 | 16.95 |
| GROUP 3 | $ 23.63 | 16.95 |
| GROUP 4 | $ 23.71 | 16.95 |
| GROUP 5 | $ 23.77 | 16.95 |
| GROUP 6 | $ 21.22 | 16.95 |
| GROUP 7 | $ 17.84 | 16.95 |
| ZONE 2 - LIVINGSTON COUNTY (east of M-151 (Oak Grove Rd.)); MONROE AND WASHTENAW COUNTIES: | | |
| GROUP 1 | $ 24.80 | 12.95 |
| GROUP 2 | $ 24.91 | 12.95 |
| GROUP 3 | $ 25.03 | 12.95 |
| GROUP 4 | $ 25.10 | 12.95 |
| GROUP 5 | $ 25.25 | 12.95 |
| GROUP 6 | $ 22.55 | 12.95 |
| GROUP 7 | $ 19.19 | 12.95 |
| ZONE 3 - CLINTON, EATON, GENESEE, HILLSDALE AND INGHAM COUNTIES; IONIA COUNTY (City of Portland); JACKSON, LAPEER AND LENAWEE COUNTIES; LIVINGSTON COUNTY (west of M-151 Oak Grove Rd.); SANILAC, ST. CLAIR AND SHIAWASSEE COUNTIES: | | |
| GROUP 1 | $ 22.99 | 12.95 |
| GROUP 2 | $ 23.13 | 12.95 |
| GROUP 3 | $ 23.25 | 12.95 |
| GROUP 4 | $ 23.30 | 12.95 |
| GROUP 5 | $ 23.44 | 12.95 |
| GROUP 6 | $ 20.74 | 12.95 |
| GROUP 7 | $ 17.89 | 12.95 |
| ZONE 4 - ALCONA, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CLARE, CRAWFORD, EMMET, | | |

GLADWIN, GRAND TRAVERSE,
GRATIOT AND HURON
COUNTIES; IONIA COUNTY
(EXCEPT THE CITY OF
PORTLAND); IOSCO,
ISABELLA, KALAMAZOO,
KALKASKA, KENT,
LAKE,LEELANAU, MANISTEE,
MASON, MECOSTA, MIDLAND,
MISSAUKEE, MONTCALM,
MONTMORENCY, MUSKEGON,
NEWAYGO, OCEANA, OGEMAW,
OSCEOLA, OSCODA, OTSEGO,
OTTAWA, PRESQUE ISLE,
ROSCOMMON, SAGINAW, ST.
JOSEPH, TUSCOLA, VAN BUREN
AND WEXFORD COUNTIES:

| | | |
|---|---|---|
| GROUP 1 | $ 22.02 | 12.95 |
| GROUP 2 | $ 22.15 | 12.95 |
| GROUP 3 | $ 22.26 | 12.95 |
| GROUP 4 | $ 22.33 | 12.95 |
| GROUP 5 | $ 22.45 | 12.95 |
| GROUP 6 | $ 19.67 | 12.95 |
| GROUP 7 | $ 18.01 | 12.95 |

ZONE 5 - ALGER, BARAGA,
CHIPPEWA, DELTA,
DICKINSON, GOGEBIC,
HOUGHTON, IRON,
KEWEENAW, LUCE, MACKINAC,
MARQUETTE, MENOMINEE,
ONTONAGON AND SCHOOLCRAFT
COUNTIES:

| | | |
|---|---|---|
| GROUP 1 | $ 22.24 | 12.95 |
| GROUP 2 | $ 22.38 | 12.95 |
| GROUP 3 | $ 22.51 | 12.95 |
| GROUP 4 | $ 22.56 | 12.95 |
| GROUP 5 | $ 22.61 | 12.95 |
| GROUP 6 | $ 19.99 | 12.95 |
| GROUP 7 | $ 18.10 | 12.95 |

SCOPE OF WORK:

Open cut construction work shall be construed to mean work which requires the excavation of earth including industrial, commercial and residential building site excavation and preparation, land balancing, demolition and removal of concrete and underground appurtenances, grading, paving, sewers, utilities and improvements; retention, oxidation, flocculation and irrigation facilities, and also including but not limited to underground piping, conduits, steel sheeting for underground construction, and all work

incidental thereto, and general excavation. For all areas except the Upper Peninsula, open cut construction work shall also be construed to mean waterfront work, piers, docks, seawalls, breakwalls, marinas and all incidental work. Open cut construction work shall not include any structural modifications, alterations, additions and repairs to buildings, or highway work, including roads, streets, bridge construction and parking lots or steel erection work and excavation for the building itself and back filling inside of and within 5 ft. of the building and foundations, footings and piers for the building. Open cut construction work shall not include any work covered under Tunnel, Shaft and Caisson work.

OPEN CUT LABORER CLASSIFICATIONS

GROUP 1: Construction laborer

GROUP 2: Mortar and material mixer, concrete form person, signal person, well point person, manhole, headwall and catch basin builder, headwall, seawall, breakwall and dock builder

GROUP 3: Air, gasoline and electric tool operator, vibrator operator, driller, pump person, tar kettle operator, bracer, rodder, reinforced steel or mesh person (e.g., wire mesh, steel mats, dowel bars, etc.), welder, pipe jacking and boring person, wagon drill and air track operator and concrete saw operator (under 40 h.p.), windlass and tugger person and directional boring person

GROUP 4: Trench or excavating grade person

GROUP 5: Pipe layer (including crock, metal pipe, multi-plate or other conduits)

GROUP 6: Grouting man, audio-visual television operations and all other operations in connection with closed circuit television inspection, pipe cleaning and pipe relining work and the installation and repair of water service pipe and appurtenances

GROUP 7: Restoration laborer, seeding, sodding, planting, cutting, mulching and top soil grading; and the restoration of property such as replacing mailboxes, wood chips, planter boxes, flagstones, etc.

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LABO0465-001 06/01/2022

LABORER: Highway, Bridge and Airport Construction

AREA 1: GENESEE, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES

AREA 2: ALLEGAN, BARRY, BAY, BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, GRATIOT, HILLSDALE, HURON, INGHAM, JACKSON, KALAMAZOO, LAPEER, LENAWEE, LIVINGSTON, MIDLAND, MUSKEGON, SAGINAW, SANILAC, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA AND VAN BUREN COUNTIES

AREA 3: ALCONA, ALPENA, ANTRIM, ARENAC, BENZIE, CHARLEVOIX, CHEBOYGAN, CLARE, CRAWFORD, EMMET, GLADWIN, GRAND TRAVERSE, IONIA, IOSCO, ISABELLA, KALKASKA, KENT, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MISSAUKEE, MONTCALM, MONTMORENCY, NEWAYGO, OCEANA, OGEMAW, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON AND WEXFORD COUNTIES

AREA 4: ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES

| | Rates | Fringes |
|---|---|---|
| LABORER (AREA 1) | | |
| GROUP 1 | $ 32.02 | 13.95 |
| GROUP 2 | $ 32.15 | 13.95 |
| GROUP 3 | $ 32.33 | 13.95 |
| GROUP 4 | $ 32.41 | 13.95 |
| GROUP 5 | $ 32.62 | 13.95 |
| GROUP 6 | $ 32.92 | 13.95 |
| LABORER (AREA 2) | | |
| GROUP 1 | $ 26.92 | 12.90 |
| GROUP 2 | $ 27.12 | 12.90 |
| GROUP 3 | $ 27.36 | 12.90 |
| GROUP 4 | $ 27.71 | 12.90 |
| GROUP 5 | $ 27.58 | 12.90 |
| GROUP 6 | $ 27.92 | 12.90 |
| LABORER (AREA 3) | | |
| GROUP 1 | $ 26.22 | 12.90 |
| GROUP 2 | $ 26.43 | 12.90 |
| GROUP 3 | $ 26.72 | 12.90 |
| GROUP 4 | $ 27.16 | 12.90 |
| GROUP 5 | $ 26.78 | 12.90 |
| GROUP 6 | $ 27.21 | 12.90 |
| LABORER (AREA 4) | | |
| GROUP 1 | $ 26.22 | 12.90 |
| GROUP 2 | $ 26.43 | 12.90 |
| GROUP 3 | $ 26.72 | 12.90 |
| GROUP 4 | $ 27.16 | 12.90 |
| GROUP 5 | $ 26.78 | 12.90 |

GROUP 6.....$ 27.21 12.90

LABORER CLASSIFICATIONS

GROUP 1: Asphalt shoveler or loader; asphalt plant misc.; burlap person; yard person; dumper (wagon, truck, etc.); joint filling laborer; miscellaneous laborer; unskilled laborer; sprinkler laborer; form setting laborer; form stripper; pavement reinforcing; handling and placing (e.g., wire mesh, steel mats, dowel bars); mason's tender or bricklayer's tender on manholes; manhole builder; headwalls, etc.; waterproofing,(other than buildings) seal coating and slurry mix, shoring, underpinning; pressure grouting; bridge pin and hanger removal; material recycling laborer; horizontal paver laborer (brick, concrete, clay, stone and asphalt); ground stabilization and modification laborer; grouting; waterblasting; top person; railroad track and trestle laborer; carpenters' tender; guard rail builders' tender; earth retention barrier and wall and M.S.E. wall installer's tender; highway and median installer's tender(including sound, retaining, and crash barriers); fence erector's tender; asphalt raker tender; sign installer; remote control operated equipment.

GROUP 2: Mixer operator (less than 5 sacks); air or electric tool operator (jackhammer, etc.); spreader; boxperson (asphalt, stone, gravel); concrete paddler; power chain saw operator; paving batch truck dumper; tunnel mucker (highway work only); concrete saw (under 40 h.p.) and dry pack machine; roto-mill grounds person.

GROUP 3: Tunnel miner (highway work only); finishers tenders; guard rail builders; highway and median barrier installer; earth retention barrier and wall and M.S.E. wall installer's (including sound, retaining and crash barriers); fence erector; bottom person; powder person; wagon drill and air track operator; diamond and core drills; grade checker; certified welders; curb and side rail setter's tender.

GROUP 4: Asphalt raker

GROUP 5: Pipe layers, oxy-gun

GROUP 6: Line-form setter for curb or pavement; asphalt screed checker/screw man on asphalt paving machines.

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LABO1076-005 04/01/2022

MICHIGAN STATEWIDE

| | Rates | Fringes |
|---|---|---|
| LABORER (DISTRIBUTION WORK) | | |
| Zone 1 | $ 25.17 | 13.32 |
| Zone 2 | $ 23.47 | 13.40 |
| Zone 3 | $ 21.60 | 13.45 |
| Zone 4 | $ 20.97 | 13.43 |
| Zone 5 | $ 21.00 | 13.40 |

DISTRIBUTION WORK - The construction, installation, treating and reconditioning of distribution pipelines transporting coal, oil, gas or other similar materials, vapors or liquids, including pipelines within private property boundaries, up to and including the meter settings on residential, commercial, industrial, institutional, private and public structures. All work covering pumping stations and tank farms not covered by the Building Trades Agreement. Other distribution lines with the exception of sewer, water and cable television are included.

Underground Duct Layer Pay: $.40 per hour above the base pay rate.

Zone 1 - Macomb, Oakland and Wayne
Zone 2 - Monroe and Washtenaw
Zone 3 - Bay, Genesee, Lapeer, Midland, Saginaw, Sanilac, Shiawassee and St. Clair
Zone 4 - Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon and Schoolcraft
Zone 5 - Remaining Counties in Michigan

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PAIN0022-002 07/01/2008

HILLSDALE, JACKSON AND LENAWEE COUNTIES; LIVINGSTON COUNTY (east of the eastern city limits of Howell, not including the city of Howell, north to the Genesee County line and south to the Washtenaw County line); MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES:

| | Rates | Fringes |
|---|---|---|
| PAINTER | $ 25.06 | 14.75 |

FOOTNOTES: For all spray work and journeyman rigging for spray work, also blowing off, $0.80 per hour additional (applies only to workers doing rigging for spray work on off the floor work. Does not include setting up or moving

rigging on floor surfaces, nor does it apply to workers engaged in covering up or tending spray equipment. For all sandblasting and spray work performed on highway bridges, overpasses, tanks or steel, $0.80 per hour additional. For all brushing, cleaning and other preparatory work (other than spraying or steeplejack work) at scaffold heights of fifty (50) feet from the ground or higher, $0.50 per hour additional. For all preparatorial work and painting performed on open steel under forty (40) feet when no scaffolding is involved, $0.50 per hour additional. For all swing stage work-window jacks and window belts-exterior and interior, $0.50 per hour additional. For all spray work and sandblaster work to a scaffold height of forty (40) feet above the floor level, $0.80 per hour additional. For all preparatorial work and painting on all highway bridges or overpasses up to forty (40) feet in height, $0.50 per hour additional. For all steeplejack work performed where the elevation is forty (40) feet or more, $1.25 per hour additional.

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PAIN0312-001 06/01/2018

EXCLUDES: ALLEGAN COUNTY (Townships of Dorr, Fillmore, Heath, Hopkins, Laketown, Leighton, Manlius, Monterey, Overisel, Salem, Saugatuck and Wayland); INCLUDES: Barry, Berrien, Branch, Calhoun, Cass, Hillsdale, Kalamazoo, St. Joseph, Van Buren

| | Rates | Fringes |
|---|---|---|
| PAINTER | | |
| Brush and roller | $ 23.74 | 13.35 |
| Spray, Sandblast, Sign Painting | $ 24.94 | 13.35 |

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PAIN0845-003 05/10/2018

CLINTON COUNTY; EATON COUNTY (does not include the townships of Bellevue and Olivet); INGHAM COUNTY; IONIA COUNTY (east of Hwy. M 66); LIVINGSTON COUNTY (west of the eastern city limits of Howell, including the city of Howell, north to the Genesee County line and south to the Washtenaw County line); AND SHIAWASSEE COUNTY (Townships of Bennington, Laingsbury and Perry):

| | Rates | Fringes |
|---|---|---|
| PAINTER | $ 25.49 | 13.74 |

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PAIN0845-015 05/10/2018

MUSKEGON COUNTY; NEWAYGO COUNTY (except the Townships of Barton, Big Prairie, Brooks, Croton, Ensley, Everett, Goodwell, Grant, Home, Monroe, Norwich and Wilcox); OCEANA COUNTY; OTTAWA COUNTY (except the townships of Allendale, Blendone, Chester, Georgetown, Holland, Jamestown, Olive, Park, Polkton, Port Sheldon, Tallmadge, Wright and Zeeland):

| | Rates | Fringes |
|---|---|---|
| PAINTER | $ 25.49 | 13.74 |

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PAIN0845-018 05/10/2018

ALLEGAN COUNTY (Townships of Dorr, Fillmore, Heath, Hopkins, Laketown, Leighton, Manlius, Monterey, Overisel, Salem, Saugatuck and Wayland); IONIA COUNTY (west of Hwy. M-66); KENT, MECOSTA AND MONTCALM COUNTIES; NEWAYGO COUNTY (Townships of Barton, Big Prairie, Brooks, Croton, Ensley, Everett, Goodwell, Grant, Home, Monroe, Norwich and Wilcox); OSCEOLA COUNTY (south of Hwy. #10); OTTAWA COUNTY (Townships of Allendale, Blendone, Chester, Georgetown, Holland, Jamestown, Olive, Park, Polkton, Port Sheldon, Tallmadge, Wright and Zeeland):

| | Rates | Fringes |
|---|---|---|
| PAINTER | $ 25.49 | 13.74 |

FOOTNOTES: Lead abatement work: $1.00 per hour additional.

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PAIN1011-003 06/02/2021

ALGER, BARAGA, CHIPPEWA, DELTA, DICKINSON, GOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON AND SCHOOLCRAFT COUNTIES:

| | Rates | Fringes |
|---|---|---|
| PAINTER | $ 26.71 | 14.38 |

FOOTNOTES: High pay (bridges, overpasses, watertower): 30 to 80 ft.: $.65 per hour additional. 80 ft. and over: $1.30 per hour additional.

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PAIN1474-002 06/01/2010

HURON COUNTY; LAPEER COUNTY (east of Hwy. M-53); ST. CLAIR, SANILAC AND TUSCOLA COUNTIES:

| | Rates | Fringes |
|---|---|---|
| PAINTER | $ 23.79 | 12.02 |

FOOTNOTES: Lead abatement work: $1.00 per hour additional. Work with any hazardous material: $1.00 per hour additional. Sandblasting, steam cleaning and acid cleaning: $1.00 per hour additional. Ladder work at or above 40 ft., scaffold work at or above 40 ft., swing stage, boatswain chair, window jacks and all work performed over a falling height of 40 ft.: $1.00 per hour additional. Spray gun work, pick pullers and those handling needles, blowing off by air pressure, and any person rigging (setting up and moving off the ground): $1.00 per hour additional. Steeplejack, tanks, gas holders, stacks, flag poles, radio towers and beacons, power line towers, bridges, etc.: $1.00 per hour additional, paid from the ground up.

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PAIN1803-003 06/01/2019

ALCONA, ALPENA, ANTRIM, ARENAC, BAY, BENZIE, CHARLEVOIX, CHEBOYGAN, CLARE, CRAWFORD, EMMET, GLADWIN, GRAND TRAVERSE, GRATIOT, IOSCO, ISABELLA, KALKASKA, LAKE, LEELANAU, MANISTEE, MASON, MIDLAND, MISSAUKEE, MONTMORENCY AND OGEMAW COUNTIES; OSCEOLA COUNTY (north of Hwy. #10); OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, SAGINAW AND WEXFORD COUNTIES:

| | Rates | Fringes |
|---|---|---|
| PAINTER | | |
| Work performed on water, bridges over water or moving traffic, radio and powerline towers, elevated tanks, steeples, smoke stacks over 40 ft. of falling heights, recovery of lead-based paints and any work associated with industrial plants, except maintenance of industrial plants | $ 25.39 | 14.68 |
| All other work, including maintenance of industrial | | |

plant.....$ 25.39 14.68

FOOTNOTES: Spray painting, sandblasting, blowdown associated with spraying and blasting, water blasting and work involving a swing stage, boatswain chair or spider: $1.00 per hour additional. All work performed inside tanks, vessels, tank trailers, railroad cars, sewers, smoke stacks, boilers or other spaces having limited egress not including buildings, opentop tanks, pits, etc.: $1.25 per hour additional.

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PLAS0514-001 06/01/2018

ZONE 1: GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW AND WAYNE COUNTIES

ZONE 2: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SANILAC, SCHOOLCRAFT, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|---|---|
| CEMENT MASON/CONCRETE FINISHER | | |
| ZONE 1 | $ 31.47 | 13.81 |
| ZONE 2 | $ 29.97 | 13.81 |

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PLUM0190-003 05/01/2015

ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GENESEE, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LIVINGSTON, LUCE, MACKINAC, MACOMB, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MONROE, MUSKEGON, NEWAYGO, OAKLAND, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, ST. CLARE, ST. JOSEPH, SANILAC, SCHOOLCRAFT, SHIAWASSEE, TUSCOLA,

VAN BUREN, WASHTENAW, WAYNE AND WEXFORD COUNTIES

| | Rates | Fringes |
|---|---|---|
| Plumber/Pipefitter - gas distribution pipeline: | | |
| Welding in conjunction with gas distribution pipeline work | $ 33.03 | 20.19 |
| All other work: | $ 24.19 | 12.28 |

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TEAM0007-004 06/01/2020

AREA 1: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SAGINAW, SANILAC, SCHOOLCRAFT, SHIAWASSEE, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

AREA 2: GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES

| | Rates | Fringes |
|---|---|---|
| TRUCK DRIVER | | |
| AREA 1 | | |
| Euclids, double bottoms and lowboys | $ 28.05 | .50 + a+b |
| Trucks under 8 cu. yds. | $ 27.80 | .50 + a+b |
| Trucks, 8 cu. yds. and over | $ 27.90 | .50 + a+b |
| AREA 2 | | |
| Euclids, double bottomms and lowboys | $ 24.895 | .50 + a+b |
| Euclids, double bottoms and lowboys | $ 28.15 | .50 + a+b |
| Trucks under 8 cu. yds. | $ 27.90 | .50 + a+b |
| Trucks, 8 cu. yds. and over | $ 28.00 | .50 + a+b |

Footnote:
a. $470.70 per week

b. $68.70 daily

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TEAM0247-004 04/01/2013

AREA 1: ALCONA, ALGER, ALLEGAN, ALPENA, ANTRIM, ARENAC, BARAGA, BARRY, BAY, BENZIE, BERRIEN, BRANCH, CALHOUN, CASS, CHARLEVOIX, CHEBOYGAN, CHIPPEWA, CLARE, CLINTON, CRAWFORD, DELTA, DICKINSON, EATON, EMMET, GLADWIN, GOGEBIC, GRAND TRAVERSE, GRATIOT, HILLSDALE, HOUGHTON, HURON, INGHAM, IONIA, IOSCO, IRON, ISABELLA, JACKSON, KALAMAZOO, KALKASKA, KENT, KEWEENAW, LAKE, LAPEER, LEELANAU, LENAWEE, LUCE, MACKINAC, MANISTEE, MARQUETTE, MASON, MECOSTA, MENOMINEE, MIDLAND, MISSAUKEE, MONTCALM, MONTMORENCY, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, ONTONAGON, OSCEOLA, OSCODA, OTSEGO, OTTAWA, PRESQUE ISLE, ROSCOMMON, SANILAC, SCHOOLCRAFT, SHIAWASSEE, SAGINAW, ST. CLAIR, ST. JOSEPH, TUSCOLA, VAN BUREN AND WEXFORD COUNTIES

AREA 2: GENESEE, LIVINGSTON, MACOMB, MONROE, OAKLAND, WASHTENAW AND WAYNE COUNTIES

| | Rates | Fringes |
|---|---|---|
| Sign Installer | | |
| AREA 1 | | |
| GROUP 1 | $ 21.78 | 11.83 |
| GROUP 2 | $ 25.27 | 11.8375 |
| AREA 2 | | |
| GROUP 1 | $ 22.03 | 11.83 |
| GROUP 2 | $ 25.02 | 11.8375 |

FOOTNOTE:

a. $132.70 per week, plus $17.80 per day.

SIGN INSTALLER CLASSIFICATIONS:

GROUP 1: performs all necessary labor and uses all tools required to construct and set concrete forms required in the installation of highway and street signs

GROUP 2: performs all miscellaneous labor, uses all hand and power tools, and operates all other equipment, mobile or otherwise, required for the installation of highway and street signs

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TEAM0247-010 04/01/2018

AREA 1: LAPEER AND SHIAWASSEE COUNTIES

AREA 2: GENESEE, MACOMB, MONROE, OAKLAND, ST. CLAIR, WASHTENAW AND WAYNE COUNTIES

| | Rates | Fringes |
|---|---|---|
| TRUCK DRIVER (Underground construction) | | |
| AREA 1 | | |
| GROUP 1 | $ 23.82 | 19.04 |
| GROUP 2 | $ 23.91 | 19.04 |
| GROUP 3 | $ 24.12 | 19.04 |
| AREA 2 | | |
| GROUP 1 | $ 24.12 | 19.04 |
| GROUP 2 | $ 24.26 | 19.04 |
| GROUP 3 | $ 24.45 | 19.04 |

PAID HOLIDAYS: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

SCOPE OF WORK: Excavation, site preparation, land balancing, grading, sewers, utilities and improvements; also including but not limited to, tunnels, underground piping, retention, oxidation, flocculation facilities, conduits, general excavation and steel sheeting for underground construction. Underground construction work shall not include any structural modifications, alterations, additions and repairs to buildings or highway work, including roads, streets, bridge construction and parking lots or steel erection.

TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Truck driver on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, Euclid, double bottom and fuel trucks)

GROUP 2: Truck driver on dump trucks of 8 cubic yards capacity or over, pole trailers, semis and fuel trucks

GROUP 3: Truck driver on low boy, Euclid and double bottom

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* SUMI2002-001 05/01/2002

| | Rates | Fringes |
|---|---|---|
| Flag Person | $ 10.10 ** | 0.00 |
| LINE PROTECTOR (ZONE 1: | | |

GENESEE, MACOMB, MONROE,
OAKLAND, WASHTENAW AND WAYNE)....$ 22.89 13.45

LINE PROTECTOR (ZONE 2:
STATEWIDE (EXCLUDING GENESEE,
MACOMB, MONROE, OAKLAND,
WASHTENAW AND WAYNE).....$ 20.19 13.45

Pavement Marking Machine
(ZONE 1: GENESEE, MACOMB,
MONROE, OAKLAND, WASHTENAW
AND WAYNE COUNTIES)
Group 1.....$ 30.52 13.45

Pavement Marking Machine
(ZONE 1: GENESEE, MACOMB,
MONROE, OAKLAND, WASHTENAW
AND WAYNE)
Group 2.....$ 27.47 13.45

Pavement Marking Machine
(ZONE 2: STATEWIDE (EXCLUDING
GENESEE, MACOMB, MONROE,
OAKLAND, WASHTENAW AND WAYNE
COUNTIES)
Group 1.....$ 26.92 13.45

Pavement Marking Machine
(ZONE 2: STATEWIDE (EXCLUDING
GENESEE, MACOMB, MONROE,
OAKLAND, WASHTENAW AND WAYNE)
Group 2.....$ 24.23 13.45

WORK CLASSIFICATIONS:

PAVEMENT MARKER GROUP 1: Drives or operates a truck mounted striper, grinder, blaster, groover, or thermoplastic melter for the placement or removal of temporary or permanent pavement markings or markers.

PAVEMENT MARKER GROUP 2: Performs all functions involved for the placement or removal of temporary or permanent pavement markings or markers not covered by the classification of Pavement Marker Group 1 or Line Protector.

LINE PROTECTOR: Performs all operations for the protection or removal of temporary or permanent pavement markings or markers in a moving convoy operation not performed by the classification of Pavement Marker Group 1. A moving convoy operation is comprised of only Pavement Markers Group 1 and Line Protectors.

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($15.00) or 13658 ($11.25). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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## WAGE DETERMINATION APPEALS PROCESS

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

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

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

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

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

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END OF GENERAL DECISIO"

# SPECIFICATIONS

Michigan Department
of Transportation
1304A (04/20)

Clear Form

# PROOF OF INSURANCE FOR CONSTRUCTION AND RECONSTRUCTION OF MICHIGAN DEPARTMENT OF TRANSPORTATION HIGHWAY / AERONAUTICS PROJECTS

*Information required by the Federal Specifications for Highway Construction andlor Act 327, P.A. of 1945 to verify insurance.*

**INSTRUCTIONS:** Complete and return MDOT-Insurance-ConstructionContracts@michigan.gov.

The subscribing insurance company certifies that insurance of the types and for limits of liability covering the work under contract with MDOT or airport owner has been obtained by the contractor named below.

Such insurance, here certified, is written in accordance with the company's regular policies and endorsements subject to the company's applicable manuals of rules and rates, except (1) the insurance shall not be subject to the usual "x" - explosion, "c" - collapse or "u" - underground property damage exclusions.

| NAME OF INSURED | | | |
|---|---|---|---|
| ADDRESS | CITY | STATE | ZIP CODE |
| TELEPHONE NO. | FAX NO. | | |

| TYPE OF INSURANCE | POLICY NUMBER & NAME OF INSURANCE COMPANY (If more than one) | POLICY DATES (MM/DD/YY) EFFECTIVE | POLICY DATES (MM/DD/YY) EXPIRATION | LIMITS: Each Occurrence: $1,000,000 Aggregate: $2,000,000 BODILY INJURY AND PROPERTY DAMAGE LIABILITY | |
|---|---|---|---|---|---|
| ☐ General Liability | | | | General Aggregate | $ |
| ☐ Commercial General Liability | | | | Prods. comp/ops Aggregate | $ |
| ☐ Claims Made ☐ Occurrence | | | | Personal & Advertising Inj. | $ |
| ☐ $_____P.D. Deductible | | | | Each Occurrence | $ |
| ☐ XCU Exclusion | | | | Fire Damage (any one fire) | $ |
| ☐ Contractual Exclusion | | | | Medical Exp. (any one person) | $ |
| **AUTOMOTIVE LIABILITY** | | | | Combined Single Limit (Minimum $2,000,000.00) | $ |
| ☐ Any Auto | | | | | |
| ☐ All Owned Autos | | | | Bodily Injury (per person) (Minimum $500,000.00) | $ |
| ☐ Scheduled Autos | | | | | |
| ☐ Hired Autos | | | | Bodily Injury (per accident) (Minimum $1,000,000.00) | $ |
| ☐ Non-Owned Autos | | | | | |
| ☐ Garage Liability | | | | Property Damage (Minimum $1,000,000.00) | $ |
| ☐ Umbrella | | | | Each Occurrence | $ |
| | | | | Aggregate | $ |
| ☐ Excess Liability Other Than Umbrella | | | | Each Occurrence | $ |
| | | | | Aggregate | $ |
| **WORKERS COMPENSATION AND EMPLOYERS LIABILITY** | | | | **STATUTORY** | |
| | | | | $ | (Each Accident) |
| | | | | $ | (Disease - Policy LImit) |
| | | | | $ | (Disease - Each Emply.) |
| ☐ Other | | | | | |

| NAME OF AGENCY | NAME OF INSURANCE COMPANY (If only one for all policies) | | |
|---|---|---|---|
| ADDRESS | CITY | STATE | ZIP CODE |
| TELEPHONE NO. | FAX NO. | | |
| AUTHORIZED REPRESENTATIVE SIGNATURE (Required) | | | DATE |

# PROGRESS CLAUSE



Start work within ten (10) days after receiving Notice of Award of Contract, or on the date agreed upon with the Engineer and Owner. In no case shall any work be commenced prior to receipt of formal notice of award by the Board.

All machine grading, aggregate surface course, and grading work on Sutinen Road and Payne Road shall be substantially completed by **July 15, 2023.**

All work, including final restoration, on Sutinen Road and Payne Road shall be completed on or before the final completion date of **July 22, 2023**.

The Low Bidder for the work covered by this proposal will be required to prepare and submit a detailed progress schedule to the Engineer within seven (7) calendar days of confirmation by the Owner, of the low bid. The progress schedule must be approved by the Project Engineer and Owner, for the Contractor to receive contract award. Lack of timely submittal by the Contractor will delay contract award per subsection 102.15 of the Standard Specifications for Construction.

The Progress Schedule shall include, as a minimum, the controlling work items for the completion of the project and the planned dates that these work items will be controlling operations. When specified in the bidding Proposal, the date the project is to be opened to traffic, as well as the final project completion date, shall also be included in the Project Schedule.

The Contractor is expected to mobilize sufficient labor resources and equipment and to work the required overtime to maintain the schedule including work after sundown. Work will be permitted on Sundays with prior approval by the Owner.

Failure by the Contractor to meet interim and/or final open to traffic dates will result in the assessment of liquidated damages in accordance with subsections 108.10.C.1 of the Standard Specifications for Construction. Liquidated damages will be assessed separately, simultaneously, and concurrently for failure to meet interim and final completion dates. Liquidated damages will continue to be assessed for each calendar day that the work associated with the interim and/or final completion dates remains incomplete. If the bidding Proposal specifies other controlling dates, these shall also be included in the Progress Schedule.

No extensions of time will be allowed for increases in contract quantities, or extra work, unless it can be shown that such increases or extras affect the critical item of work.

The approved low bidder for the work covered by this proposal will be required to participate in a pre-construction meeting with Baraga County Road Commission and/or representatives of them. The date for this meeting will be set within one week after the approved low bidder is determined. The Baraga County Road Commission will arrange the time and place for the preconstruction meeting after contract award.

The named Sub-Contractor(s) for Designated and/or Specialty Items, as shown in the proposal, is recommended to be at the scheduled meeting if such items materially affect the work schedule.

# NOTICE TO BIDDERS

# UTILITY COORDINATION



The contractor shall cooperate and coordinate construction activities with the owners of utilities as stated in Section 104.08 of the 2020 Michigan Department of Transportation Standard Specifications for Construction. In addition, for the protection of underground utilities, the contractor shall follow the requirements in Section 107.12 of the 2020 MDOT Standard Specifications for Construction. Contractor delay claims, resulting from a utility, will be determined based upon Section 108.09 of the 2020 MDOT Standard Specifications for Construction.

The existing utilities listed below represent the best information available as obtained on our surveys. This information does not relieve the contractor of the responsibility to be satisfied as to its accuracy and the location of existing utilities.

Public Utilities

The following Public Utilities may have facilities located within the Right-of-Way of Sutinen Road and Payne Road:

Telephone
Baraga Telephone Company
204 State Street
Baraga, MI. 49908
(906) 353-6644
Attn: John French

Telephone
AT&T
211 East B Street
Iron Mountain, Michigan 49801
(906) 779-2744
Contact: Marsha Bertoldi

Cable Television
Charter Communications
115 East Mcleod Avenue
Ironwood, MI 49938
(906) 235-9623
Attn: Jeffery Gregg

Electricity
Upper Peninsula Power Co.
18494 Houghton Canal Rd.
Houghton MI. 49931
(906) 483-4561
Attn: Andy Imbrunnone

Electricity
Ontonagon County Rural Electrification Association
500 J.K. Paul Street
Ontonagon, MI 49953
(906) 675-1308
Contact: Mark Urbis

Gas
SEMCO Energy and Gas
34 US-41 East
Negaunee, MI 49866
(906) 231-7972
Attn: Jeff Jackovich

MICHIGAN
DEPARTMENT OF TRANSPORTATION

NOTICE TO BIDDERS
FOR
**BID RIGGING**

CSD:LS 1 of 1 APPR:MAS:02-09-21

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.

MICHIGAN
DEPARTMENT OF TRANSPORTATION

NOTICE TO BIDDERS
FOR
**FRAUD AND ABUSE HOTLINE**

CSD:LS 1 of 1 APPR:MAS:02-09-21

The Michigan Department of Transportation (MDOT) has established a Fraud and Abuse Hotline for employees, contractors, consultants, and others to report suspected fraud or abuse, such as: prevailing wage non-compliance, theft, kickbacks, wrongful claims, contract fraud, use of materials that do not comply with specifications, unapproved substitution of materials, commodities, or test samples, or failure to follow contract procedures.

Anyone with knowledge of any activity involving the potential for fraud or abuse is requested to call the Hotline at (toll free) **1-866-460-6368** or **517-241-2256**.

# FREQUENTLY USED SPECIAL PROVISIONS

# SPECIAL NOTICE
# INSURANCE

The Contractor, prior to execution of the contract, shall file with the Baraga County Road Commission a Certificate or Certificates of Insurance in form satisfactory to the Baraga County Road Commission showing that the Contractor has complied with the insurance requirements set forth in the 2020 MDOT Standard Specifications for Construction. ie..Michigan Department of Transportation Form 1304A.

# SPECIAL BONDING PROVISION

In addition to the security required by 1905 PA 187, MCLA 570.101 et seq.; MSA 26.321 et seq.; and the Michigan Department of Transportation 2020 Standard Specifications for Construction, the successful bidder on the project shall furnish a satisfactory lien bond written by the same surety as the standard statutory performance bond, in an amount not less than the total contract price, which additional bond shall secure the payment of all claims:

(1) Lienable under the terms of said statute.

(2) Notice of which is not given by subcontractors within the statutory period, but

(a) Notice of which is given by subcontractors within sixty (60) days after notice of the payment of the final estimate or post final estimate having been made by the Baraga County Road Commission; or

(b) In the case of a supplier to the contractor or a subcontractor, within 120 days after the materials are last furnished.

Said additional bond shall conform with the terms of 1905 Pa 187, supra, in all respects except the time within which the notice of lien claims must be given, as provided herein.

# SPECIAL PROVISON
# FOR
# TAXES

The Contractor shall include, and will be deemed to have included, in its bid and contract price all applicable Michigan Sales and Use Taxes which have been enacted into law as of the date the bid is submitted. To the extent of any conflict, this Special Provision controls over the 2020 MDOT "Standard Specifications for Construction".

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
**LABOR COMPLIANCE**

COS:AS 1 of 3 APPR:JJG:RJC:03-24-20
FHWA:APPR:03-30-20

**a. Description.** Ensure all levels of contracting (prime, sub, sub-sub, etc.) comply with all labor compliance requirements in this contract. The Contractor is responsible for subcontractors and lower tier subcontractor labor compliance. Job site poster requirements apply to state and federally funded projects. All Contractors must insert this special provision in each subcontract and further require its inclusion in lower tier subcontracts for federal prevailing wage projects.

**b. Requirements.**

1. Jobsite Posters. All jobsite posters and employment notices required by State and Federal regulations and the contract are to be posted on the jobsite in a conspicuous area prior to the commencement of work. Ensure jobsite postings are accessible at all times.

2. Federal Prevailing Wage Projects. The Davis-Bacon Related Acts apply to all Contractors, and subcontractors (all tiers) performing work on federally funded or assisted construction contracts where the total construction contract price is in excess of $2,000. Contractors and subcontractors are required to comply with *29 Code of Federal Regulations Parts 1, 3*, and *5*.

The Contractor must advise subcontractors of the requirement to pay the prevailing wage rates prior to commencement of work and that all employees must cooperate during wage rate interviews.

A. Certified Payroll Submittal Requirements. Contractors (all tiers) must submit their certified payrolls to the prime Contractor. The submitted payrolls must accurately and completely include all information required on MDOT Form CP-347, Certified Payroll. The required weekly payroll information may be submitted on a contractor generated form but must contain all information required on Form CP-347. The first certified payroll is to be received by the Engineer within 3 weeks from the week ending in which work is performed. The 3 week period is to allow for the processing and review of the certified payrolls by the prime Contractor. The review must ensure the certified payroll is complete and contains all information required on Form CP-347. Form CP-347 is available on the MDOT forms webpage. Certified payroll information must meet the requirements of this special provision unless the contract requires payroll to be submitted through the prevailing wage and labor compliance (PWLC) system. Payroll submitted via the PWLC system must be entered into the system, certified, and approved by the prime Contractor to be considered received by the Department.

Labor compliance issues must be resolved within 60 calendar days of receiving the Departments first documented notice. The 60-day requirement may be extended based on documented mutual agreement between the Department and the Contractor.

(1) Fringe Benefit Statements. Contractors making payments or incurring cost to provide bona fide benefits must submit an hourly breakdown of fringe benefits paid each worker, or work classification where applicable, that must accompany the first certified payroll where fringe benefits are credited towards the prevailing wage. The Contractor must update these documents as necessary to ensure they are current throughout the working life of the contract. Failure to submit or maintain the required fringe benefit statement will constitute a payroll deficiency.

(2) Delinquent Payroll. Certified payrolls not submitted per subsection b.2.A of this special provision will be considered delinquent.

(3) Deficient Payroll. Certified payrolls that are found to be incomplete, inaccurate, or inconsistent with other project records are considered deficient.

(4) Non-compliance Damages. A Contractor found to be in non-compliance with the requirements of this special provision will be assessed non-compliance damages listed in Table 1, proportional to the value of their work on the contract (including subcontract, purchase order (P.O.) or invoice amount).

**Table 1: Schedule of Non-Compliance Damages**

| Contract/Subcontract/P.O./Invoice Amount (a) | Non-compliance damages per calendar day |
|---|---|
| $0 to 49,999 | $200 |
| 50,000 to 99,999 | 400 |
| 100,000 to 499,999 | 600 |
| 500,000 to 999,999 | 900 |
| 1,000,000 to 1,999,999 | 1,300 |
| 2,000,000 to 4,999,999 | 1,550 |
| 5,000,000 to 9,999,999 | 2,650 |
| 10,000,000 and above | 3,000 |
| Trucker | $200 |

a. "Contract" amount if offending contractor is the prime contractor. "Subcontract/P.O./Invoice" amount if offending contractor is a subcontractor/vendor.

B. Record Keeping. Maintain payrolls and basic records relating thereto (i.e. employee names, occupation, hours worked, W2, canceled checks, bank statements, etc.) by all levels of contractors during the course of work and retain for a 3-year period from the date of final estimate for all employees working on the site of work. Make these records available for inspection, copying, or transcription by the Department or its representative.

C. Short Duration Projects. The following modifications apply if the project is less than 75 calendar days in duration.

(1) Submittal Requirements. On short duration projects the first certified payroll is to be received by the Engineer within 2 weeks from the week ending in which work is

performed. The 2-week period is to allow for the processing and review of the certified payrolls by the Contractor. The 2-week period allows the first estimate to be paid assuming the Contractor will submit certified payrolls in a timely manner. Ensure subsequent certified payroll submissions are made weekly. Payroll submissions failing to meet the above requirements will be considered delinquent.

Labor compliance issues are to be resolved within 30 days after receiving the Department's first documented notice. The 30-day requirement may be extended based on documented mutual agreement between the Department and the Contractor.

**c. Materials.** None specified.

**d. Construction.** None specified.

**e. Measurement and Payment.** Payment for compliance with this special provision will not be made separately. Payment will be considered as part of all other pay items in the contract.

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
**UTILIZING DISADVANTAGED BUSINESS ENTERPRISE TRUCKING VENDORS**

CSD:LFS 1 of 1 APPR:JJG:MRB:11-18-21
FHWA:APPR:11-18-21

**After the fifth paragraph of subsection 108.01, Subcontracting of Contract Work, of the Standard Specifications for Construction add the following:**

The Contractor must provide a subcontract to the Engineer for each DBE trucking company on the project. The subcontract must be provided in advance of the work or no later than 15 calendar days of the DBE trucking company commencing work on the project.

The use of DBE trucking vendors does not apply to the limitation of subcontracting.

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
**PROMPT PAYMENT**

CFS:JJG 1 of 4 APPR:LFS:DBP:03-27-20
FHWA:APPR:03-30-20

**Add the following subsection to section 109, of the Standard Specifications for Construction:**

**109.08 Prompt Payment.**

A. **Definitions.**

**Lower-tier subcontract.** An agreement between a subcontractor of any tier and any individual or legal entity to perform a part of the subcontract work.

**Lower-tier subcontractor.** The individual or legal entity that performs part of the subcontract work through a lower-tier subcontract with a subcontractor.

**Supplier.** The individual or legal entity that agrees to provide materials or services to the prime Contractor, a subcontractor, or a lower-tier subcontractor for the performance of their contract work.

**Sworn Statement.** A written verification under oath reflecting all persons or entities, which have furnished labor, equipment, services or materials to a subcontractor or lower-tier subcontractor for performance of work on the project. The written verification includes union fringe benefit funds, original contract amount, current amount due, amounts paid to date and balance to finish the work for each person or entity.

**Waiver of Lien.** A written release and waiver of any claim or right to payment for payments actually received for labor, equipment, services or materials furnished for performance of work on the project.

The sworn statement and waiver of lien documents are used by the prime Contractor and its subcontractors for verifying payments made to lower-tier subcontractors/suppliers and are not to be submitted to the Engineer unless requested as an aid in determining an alleged prompt payment violation. These documents can be found at the following website under the Construction Field Services - Forms heading:

http://www.michigan.gov/mdot/0,1607,7-151-9622_11044_11367---,00.html

B. **Progress Payments.** For the first payment, or for a one time payment, the prime Contractor agrees to pay each subcontractor for the work associated with their subcontract no later than 10 calendar days from the date the prime Contractor receives payment from the Department.

For the second and subsequent payments, the prime Contractor agrees to pay each subcontractor for the work associated with their subcontract no later than 10 calendar days from the date the prime Contractor receives payment from the Department.

The Contractor is required to provide payment information for previous payments made to all first tier subcontractors and all DBE companies (sub-subcontractors, suppliers, truckers, etc.) at any tier before the Engineer will release the third and subsequent estimates. For all subsequent progress pay estimates if 1) the Engineer payment does not include any first tier subcontractors or any DBE company payments at any tier, and 2) the previously submitted payment reporting information remains unchanged, then payment reporting in the system is not required. Reporting is required when the prime Contractor makes payments to any first tier subcontractors and any DBE companies at any tier. The payment information is provided through submittal of the information via the 2124A reporting system (MERS). System information can be found at the following web link.

https://milogin.michigan.gov/eai/login/authenticate?URL=/

The prime Contractor must bring any concerns about the satisfactory completion of subcontractor or lower-tier subcontractor work items, to the Engineer's attention as soon as the concern is discovered. If the work meets the requirements of satisfactory completion and the prime Contractor has been paid for that work, the Engineer must determine whether:

1. The prime Contractor has demonstrated a valid reason for withholding payment from the subcontractor or supplier, or

2. The subcontractor has demonstrated a valid reason for withholding payment from the lower-tier subcontractor or supplier.

If the Engineer determines the reason for withholding payment is valid, the Engineer will process a negative estimate to withdraw the amount involved in the complaint. If payment has not been made for the work related to the complaint, the Engineer will not include those items of work on an estimate until the issue has been resolved.

The prime Contractor remains responsible to make prompt payments on this project to their subcontractors and suppliers except as noted in subsection 109.08.D of this special provision, even if the prime Contractor is in violation of other contractual obligations and the Department is withholding payment from the prime Contractor for those violations.

The prime Contractor must include language in all subcontracts that the Department prohibits prime Contractors from holding retainage from subcontractors. All provisions of this prompt payment subsection apply to all subcontracts, lower-tier subcontracts, and supplier agreements and must be included in each subcontract for the contract, including all lower-tier subcontracts and agreements.

This prompt payment provision is a requirement of 49 CFR 26.29 and does not confer third-party beneficiary rights or other direct rights to a subcontractor against the Department. This provision applies to both DBE and non-DBE subcontractors/suppliers at all tiers.

C. **Satisfactory Completion.** Progress and partial payments for contract work are issued based on the satisfactory completion of work. Satisfactory completion, for purposes of this prompt payment provision, is defined as:

1. Upon preliminary review, the Engineer finds the work completed in accordance with the contract, plans, and specifications; and,

2. Required documentation, including material certifications, payrolls, submission of 2124A, etc., has been received and reviewed and found to be acceptable by the Engineer; and,

3. Required subcontractor sworn statements and waivers of lien have been provided to the prime Contractor. The prime Contractor must provide notice to the Engineer if sworn statements and waivers of lien have not been received for completed work.

The Engineer will determine if the work meets the standards of satisfactory completion.

D. **Less than full payment release.** The Engineer may give written approval to:

1. Delay or postpone payment from the time frames specified herein,

2. Process partial payment from the prime Contractor to a subcontractor or supplier,

3. Process partial payment from a subcontractor to a lower-tier subcontractor or supplier.

The unpaid portion will be held by the Department.

The parties may initiate whatever dispute resolution procedure is specified in their agreement or is available under Michigan law. If dispute resolution or litigation is selected, the actions by both parties must proceed in a timely manner. The result of the dispute resolution proceeding or litigation must be provided to the Engineer promptly upon the conclusion of the proceeding. The Engineer will release the disputed payment being held by the Department in accordance with the outcome of the proceedings.

E. **Non-Payment Claims.** The prime Contractor, subcontractor, lower-tier subcontractor or supplier must notify the alleged offending party in writing of any prompt payment violations within 30 calendar days of the date the payment was to be received. Copies of the notifications must be provided to the Engineer and the prime Contractor (only if the prime Contractor is not the offending party).

The alleged offending party must respond in writing to the claimant within 10 calendar days of receipt of the notification of failure to meet prompt payment provisions. Provide copies of the response to the Engineer, the prime Contractor (only if the prime Contractor is not the offending party), and the Engineer of Construction Field Services. The prime Contractor, subcontractor, or supplier must also provide the required sworn statements and waivers of lien from the affected subcontractor or supplier to the Engineer within 10 days of receipt of the notification. The Department will consider the failure of the alleged offending party to respond to the notification from the claimant as an admission of the prompt pay violation which may result in sanctions.

The Engineer will review the written notice and response and will verify in writing if there is a valid prompt pay violation.

Independent of all procedures and requirements in this special provision the non-payment claimant has the additional option of submitting a lien claim to the MDOT Contract Services

Division. MDOT will notify the project surety of the non-payment issue. It is the responsibility of the surety to ensure that all legitimately due payments are made. The submission of a lien claim will not nullify or affect any other requirements, obligations or procedures in this special provision.

F. **Remedies**. When the Engineer verifies a prompt payment violation, the prime Contractor within 5 days must propose one or a combination of any of the following actions items for review and approval by the Engineer:

1. Issue payment to the subcontractor.

2. Issue payments to a subcontractor in the form of joint checks to the subcontractor and the subcontractor's lower-tier subcontractors and/or suppliers.

3. Issue payment directly to the subcontractor's lower-tier subcontractors or suppliers.

4. Request a negative estimate to withdraw the amount confirmed in the prompt payment violation.

If the prime Contractor fails to submit a timely remedy request or obtain an approved course of action within the 5 day time period, the Engineer will direct a course of action or issue a negative estimate to withdraw the amount confirmed in the prompt payment violation.

If the prime Contractor fails to fulfill the approved or directed course of action the Engineer will impose sanctions until such time as the approved or directed course of action is completed.

Any payments to a subcontractor's lower-tier subcontractor or supplier will be issued in the amounts reflected upon the subcontractor's sworn statements or in amounts independently verified by the Engineer as being due the subcontractor's lower-tier subcontractors and suppliers for work completed. Payments to a lower-tier subcontractor or supplier will be considered payment to the subcontractor directly so that payment for the same work cannot be claimed.

Any other use of joint checks must follow current Department procedures.

G. **Sanctions.** Failure to comply with any of the prompt payment requirements by the prime Contractor, subcontractor, lower-tier subcontractor, or supplier may result in sanctions against the offending party. These sanctions may include, but are not limited to: withholding of estimates on projects where prompt payment violations are confirmed; reduction or removal of prequalification; and/or suspension of bidding privileges.

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
**NON-COMPLIANCE WITH SOIL EROSION AND SEDIMENTATION CONTROL REQUIREMENTS**

COS:DMG 1 of 2 APPR:TWK:HLZ:02-26-20
FHWA:APPR:03-02-20

**a. Description.** This special provision establishes negative adjustments related to the failure to properly install and maintain soil erosion and sedimentation control (SESC) measures and the conditions under which these adjustments will be determined and applied. Nothing in this special provision modifies section 107 of the Standard Specifications for Construction.

Delays to the project as a result of the Contractor conducting corrective actions for SESC measures do not constitute a valid reason for an extension of time.

Ensure deficiencies with SESC measures are corrected in the time frame stated herein. For those deficiencies not corrected within the stated time frame, the Engineer will make a negative adjustment to the contract as stated herein.

**b. Materials.** None specified.

**c. Construction.** Install all temporary erosion control measures identified on the plans and as directed by the Engineer for an impacted area of the project prior to the start of any earth disturbance including, but not limited to, clearing, grading and excavation in that area. The Engineer will inspect these measures every 7 days and within 24 hours after a precipitation event that results in a discharge from the site. Deficiencies will be documented on the National Pollutant Discharge Elimination System and SESC Inspection Report (MDOT Form 1126).

If at any time during the project, including the time during the seasonal suspension, the Engineer documents deficient SESC measures, the Engineer will provide written notification with instructions for corrective action to the Contractor. The time frame for completion of these corrective actions will be specified in the notification and will be discussed with the Contractor as necessary.

Deficiencies are defined as one or more of the following:

1. Failure to install or construct SESC measures shown on the plans or as directed by the Engineer;

2. Failure to maintain the measures;

3. Failure to conduct earth change activities in a manner consistent with all applicable environmental permit requirements;

4. Failure to comply with the area limitations or the time limitations stated in subsections 208.03.A and 208.03.B, respectively, of the Standard Specifications for Construction.

SESC deficiencies are either emergency or non-emergency and the time frame for corrective action is determined accordingly. Sediment leaving the right-of-way or entering a drainage structure, waters of the state, or loss of support of the roadbed impacting public safety constitutes an emergency and corrective actions must be completed within 24 hours of notification, including weekends or holidays regardless of whether the Contractor is working or not. Non-emergency deficiencies must be corrected within 5 calendar days of notification.

For those emergency corrective actions not completed within 24 hours of notification, the Contractor will be assessed $100.00 per hour for every hour the deficiency remains uncorrected after the initial 24 hours of notification. For those non-emergency corrective actions not completed within 5 calendar days, the Contractor will be assessed $500.00 per day for every day, or part thereof, the deficiency remains uncorrected after the initial 5 days of notification.

If it is not practicable to complete the non-emergency corrective actions within 5 calendar days, the Contractor must document the reasons and propose a corrective action plan to the Engineer within 5 days of notification. The corrective action plan must contain the Contractor's course of action and a time frame for completion. If the reasons and the corrective action plan are acceptable to the Engineer, the Contractor will be allowed to proceed with the plan as proposed without incurring a negative adjustment. If the approved corrective action plan is not completed as proposed, the Contractor will be assessed $1000.00 per calendar day for every day, or part thereof, the deficiency remains uncorrected after the time frame is exceeded in the approved corrective action plan.

Correct, in the timeframe stated herein, all other emergency or non-emergency SESC deficiencies documented anywhere else on the project during completion of the approved corrective action plan.

**d. Measurement and Payment.** The Engineer will make the necessary monetary adjustment to the contract amount based on the length of time the Contractor allows the deficiencies to remain uncorrected after the time allowance stated herein and as described to cover any costs incurred by the Department as a result of SESC violations.

All costs associated with corrective actions required due to the Contractor's failure to properly install or maintain SESC measures on this project will be borne by the Contractor.

# SUPPLEMENTAL SPECIFICATIONS

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SUPPLEMENTAL SPECIFICATION
FOR
**ERRATA TO THE 2020 STANDARD SPECIFICATIONS**



| Page | Subsection | Errata |
|---|---|---|
| 1-06 | 101.02 | Delete the second abbreviation of the list on this page reading:<br>“IES .....Illuminating Engineering Society |
| 1-06 | 101.02 | Add the abbreviation to the list on this page reading:<br>“IESNA Illuminating Engineering Society of North America |
| 1-83 | 108.05.A.2 | In the first paragraph of this subsection change the language “MDOT Form 1130” to read “MDOT Form 1130A”. |
| 1-88 | 108.08.D | Move the last paragraph of this subsection to the left one indent to align with the first paragraph of the subsection and not with the subsection 108.08.D.3. |
| 2-29 | 205.03.P.1 | Delete the first sentence of this subsection and replace with the following:<br>“Do not dispose of material, temporarily or permanently, beyond the normal plan fill slope across wetlands or floodplains.” |
| 2-30 | 205.03.P.2 | Delete the first sentence of this subsection and replace with the following:<br>“Do not dispose of material, temporarily or permanently, in wetlands or floodplains.” |
| 2-30 | 205.03.P.3 | Delete the second paragraph of this subsection and replace with the following:<br>“Contact the appropriate regulatory agencies to determine whether an area is a regulated wetland or floodplain before disposing of surplus or unsuitable material in areas outside the right-of-way and not shown on the plans as disposal sites.” |
| 2-30 | 205.03.P.3 | Delete the first sentence of the third paragraph of this subsection and replace with the following:<br>“Immediately move to an upland site any surplus or unsuitable material that was disposed of in portions of wetlands or floodplains not shown on the plans as disposal sites, at no additional cost to the Department.” |
| 2-30 | 205.03.P.4 | Delete the first sentence of this subsection and replace with the following: |

| | | |
|---|---|---|
| | | "The Department will notify the applicable regulatory agencies if the Department becomes aware that the Contractor disposed of surplus or unsuitable material in portions of a wetland or floodplain not shown on the plans." |
| 3-31 | 308.04.D | Change the subsection title from "D. **General**." to read "A. **General**." |
| 4-7 | 401.03.E | Delete the third sentence of the second paragraph of this subsection and replace with the following:<br>"Use precast or cast-in-place footings for precast end sections as required." |
| 4-11 | 401.04 | Change the eighth pay item from the bottom of the list on this page to read as follows:<br>Culv End Sect __ inch, Grate.....Each |
| 4-12 | 401.04.C.4 | Change this subsection to read:<br>"The Engineer will measure Culv End Sect __ inch, Grate by each as shown on the plans for the size of grate required." |
| 4-39 | 406.02 | Change the third line in the list of materials to read:<br>Coarse Aggregate 6A, 6AA, 17A.....902 |
| 4-41 | 406.03.A.3 | Delete the third paragraph of this subsection and replace with the following:<br>"Design joints between adjacent box culvert sections in accordance with Section 9 of ASTM C1577 and to accommodate the joint sealing material in accordance with section 914 as applicable." |
| 4-50 | 406.03.G.3 | Change the first sentence of the first paragraph to read:<br>"Unless otherwise shown on the plans, construct culvert bedding for box culverts by placing a 9-inch-thick layer of 46G aggregate, covered with a 3-inch-thick layer of 34G, 34R aggregate, or approved equal." |
| 4-52 | 406.04.B | In the second paragraph of this subsection delete the first sentence and replace with the following:<br>"The Department will pay separately for cast-in-place concrete, other than for culvert segments, headwalls, wingwalls, aprons, and curtain walls." |
| 5-26 | 502.02 | Delete the first sentence of the subsection and the listed materials in this subsection. |
| 5-26 | 502.02.A | Add the following to the end of the first sentence in this subsection:<br>"(914.04A)" |
| 5-26 | 502.02.B | Add the following to the end of the first sentence in this subsection:<br>"(502.02B)" |

| | | |
|---|---|---|
| 6-23 | 602.04.F | Add the following sentence to the end of the first paragraph of this subsection:<br>Temporary concrete pavement, pavement within 4 feet of an obstruction, pavement areas less than 300 square yards, or pavement less than 3 feet wide will not be cored. |
| 6-23 | 602.04.F | Delete the following language from this subsection on this page:<br>"The Engineer will not core the following:<br><br>1. Temporary concrete pavement;<br><br>2. Pavement within 4 feet of an obstruction;<br><br>3. Pavement areas less than 300 square yards; or<br><br>4. Pavement less than 3 feet wide." |
| 6-24 | 602.04 | Rename the following subsections as follows:<br>"1. Initial Core. |
| 6-24 | 602.04 | 2. Additional Cores. |
| 6-24 | 602.04 | 3. Price Adjustment for Thickness. |
| 6-25 | 602.04 | 4. Price Adjustments for Steel Locations within the Pavement. |
| 6-26 | 602.04 | 5. Remove and Replace." |
| 7-107 | 709.04 | Change the Pay Unit on the second pay item from the top of the list on this page to read as follows:<br>Thousand Board Foot |
| 8-12 | 804.03.B.2 | Change the first sentence in this subsection to read:<br>"Cast in place light standard and sign support foundations using fixed forms in accordance with the *MDOT Standard Plan R-50 series."* |
| 8-44 | 810.03.J.9 | Add a period to the end of the third sentence in this subsection. |
| 8-53 | 810.03.V | Add a period to the end of the second sentence of the first paragraph of this subsection. |
| 8-53 | 810.04 | Change the fourth pay item from the top of the list on this page to read as follows:<br>Post, Steel, __ pound.....Foot |
| 8-54 | 810.04 | Delete the last pay item of the list on this page reading:<br>"Bracket, H.....Each |
| 8-56 | 810.04.F | Delete the last sentence of the second paragraph of this subsection reading:<br>"H brackets will be paid for separately." |
| 8-57 | 810.04.I | Delete the first paragraph of this subsection and replace with the following: |

| | | |
|---|---|---|
| | | "The unit price for **Sign, Rem** of the type required includes the cost of removing signs from supports and stacking by shape and size." |
| 8-57 | 810.04.I | Delete the second paragraph of this subsection and replace with the following:<br>"The unit prices for **Ground Mtd Sign Supports, Rem**; **Cantilever, Rem** and **Truss, Rem** include the cost of removing ground mounted sign supports, cantilever or truss supports." |
| 8-57 | 810.04.L | Change this subsection to read:<br>"The unit price for Sign, Erect, Salv of the type required includes erecting the salvaged sign on a new sign support or existing sign support, as shown on the plans, and attaching devices, and hardware, including brackets." |
| 8-58 | 810.04.N | Delete this subsection in its entirety. |
| 8-110 | 812.04 | Change the fifth and sixth pay item from the top of the list on this page to read as follows:<br>Sign, Type B, Temp, Prismatic, Spec, Furn ..... Square Foot<br>Sign, Type B, Temp, Prismatic, Spec, Oper ..... Square Foot |
| 8-141 | 815.04.C.1.d | Delete this subsection in its entirety. |
| 8-142 | 815.04.C.2.d | Change this subsection to read:<br>"During the first watering of the second growing season, remove and dispose of the guying material, identification tags, and inspection tags." |
| 8-144 | 816.03.A | Change the third sentence in this subsection to read:<br>"Use topsoil from within the project limits; or from off-site sources meeting the requirements in subsection 917.06." |
| 8-170 | 818.04.G | Delete this subsection in its entirety. |
| 8-170 | 818.04 | Rename the following subsections as follows:<br>"G. **Handholes (Hh).** |
| 8-171 | 818.04 | H. **Service Disconnect.** |
| 8-171 | 818.04 | I. **Metered Service.** |
| 8-171 | 818.04 | J. **Unmetered Service.** |
| 8-172 | 818.04 | K. **Wood Pole.** |
| 8-172 | 818.04 | L. **Concrete Pole, Fit Up.** |
| 8-172 | 818.04 | M. **Steel Pole, Fit Up.** |
| 8-172 | 818.04 | N. **Bracket Arm.**" |
| 8-185 | 820.01.B | Add a period to the end of the first sentence of this subsection. |
| 8-199 | 820.04 | Add the pay item to the list on this page:<br>TS, (number) Way (type) Mtd (LED) Optic |

| | | |
|---|---|---|
| 8-200 | 820.04 | Change the second pay item from the top of the list on this page to read as follows:<br>TS Head, Temp .....Each |
| 8-200 | 820.04 | Change the eleventh pay item from the top of the list on this page to read as follows:<br>TS, Lens, Pedestrian Sym (LED) .....Each |
| 8-200 | 820.04 | Delete the following pay items from the list:<br>Strain Pole, Steel, 6 bolt, __ foot.....Each<br>Mast Arm Pole, Cat__.....Each<br>Mast Arm, __Foot, Cat.....Each |
| 8-200 | 820.04 | Change the eleventh pay item from the bottom of the list on this page to read as follows:<br>Mast Arm, Rem.....Each |
| 8-202 | 820.04 | Add the following pay item to the list:<br>Bracket, Truss, Salv.....Each |
| 8-204 | 820.04.C | Delete the last paragraph of this subsection in its entirety. |
| 8-204 | 820.04.D | Delete the first paragraph of this subsection in its entirety. |
| 9-9 | 902.03.C.1.b | Delete the first sentence in this subsection and replace with the following:<br>“The physical requirements for the coarse aggregate are as specified in Table 902-2 and as follows:” |
| 9-16 | Table 902-2 | Delete the superscript footnote in the first through fourth rows under the header row that reads “(m)” in the column Loss, % max, LA Abrasion (MTM 102). |
| 9-16 | Table 902-2 | Add the superscript footnote in the header row that reads “(m)” in the column Loss, % max, LA Abrasion (MTM 102). |
| 9-15 | Table 902-2 | Delete the footnote (d) in one location in the table. |
| 9-17 | Table 902-2 | Delete the footnote (d) in one location in the table. |
| 9-21 | Table 902-6 | Delete the footnote (b) in two locations in the table. |
| 9-21 | Table 902-6 | Change the footnote (c) to read (b) in two locations in the table. |
| 9-21 | Table 902-6 | Change the footnote (d) to read (c) in two locations in the table. |
| 9-70 | 909.05.D | Change the first sentence in this subsection to read:<br>“Provide steel pipe for jacking in place meeting the requirements of ASTM A53/A53M for Type E or Type S, Grade B, or ASTM A139/A139M for Grade B.” |

| | | |
|---|---|---|
| 9-94 | Table 910-01 | Change the value in the fifth row under the header row in the Permittivity (min) (per second) column from 0.5 to read:<br>"0.05" |
| 9-94 | Table 910-01 | Change the value in the seveth row under the header row in the Permittivity (min.) (per second) column from 0.5 to read:<br>"0.05" |
| 9-95 | Table 910-2 | Change the second row under the Ultimate strength section to read:<br>"CMD[(c)] 1950 lb/ft" |
| 9-119 | 913.06 | Change this subsection to read:<br>Circular precast concrete units with circular reinforcement for adjusting rings, tops, risers, and sump bases for manholes, catch basins, and inlets must meet the requirements of AASHTO M199 and the following additions and exceptions: |
| 9-133 | 917.03 | Rename the four subsections following the first paragraph on this page as follows:<br>D. Deciduous Shade Trees.<br>E. Small Trees, Ornamentals, and Shrubs.<br>F. Evergreen Trees.<br>G. Vines, Ground Cover, and Herbaceous Ornamental Plants. |
| 9-170 | 920.02.C | Change the reference to Table 920-2 to read Table 920-3 in two locations. |
| 10-23 | 1003.03.B | Delete the last sentence of this subsection and replace with the following:<br>"Aggregate sampling for concrete will be performed by an MCAT-certified Aggregate Technician Level II." |
| 10-43 | Table 1006-02 | Replace Table 1006-02 with the Table 1006-02 below. |
| A2 | Pay Item Index | Delete the following pay item reading:<br>Bracket, H.....8-54 810 |
| A2 | Pay Item Index | Add the following pay item reading:<br>Bracket, Truss, Salv.....8-202 820 |
| 6A | Pay Item Index | Change the following pay item to read:<br>Culv End Sect __ inch, Grate.....4-11 401 |
| 14A | Pay Item Index | Delete the following pay items reading:<br>Mast Arm Pole, Cat__.....8-200 820<br>Mast Arm, __Foot, Cat.....8-200 820 |
| 14A | Pay Item Index | Change the following pay item to read:<br>Mast Arm, Rem.....8-200 820 |
| 19A | Pay Item Index | Change the following pay item to read: |

| | | | | |
|---|---|---|---|---|
| | | Post, Steel, __ pound | 8-53 | 810 |
| 22A | Pay Item Index | Change the following pay item to read: | | |
| | | Sign, Type B, Temp, Prismatic, Spec, Furn | 8-110 | 812 |
| | | Sign, Type B, Temp, Prismatic, Spec, Oper | 8-110 | 812 |
| 23A | Pay Item Index | Delete the following pay item reading: | | |
| | | Strain Pole, Steel, 6 bolt, __ foot | 8-200 | 820 |
| 26A | Pay Item Index | Change the following pay item to read: | | |
| | | TS Head, Temp | 8-200 | 820 |

**Table 1006-2:**
**Overlay Mixtures**

| Mixture Type | Aggregate | Slump (inch) | Air Content | Admixture Required | Mixture Proportions lb/yd³, dry weight | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cement[a] | Dry Densified Silica Fume[b] | Net Mix Water | Fine Agg | Coarse Agg | Latex Admixture |
| SFMC | 2NS and 26A[c] | 4–6 | 6.5 ±1.5% | [d],[e],[f] | 618 | 40 | 273[g] | 1273 | 1601 | — |
| LMC | 2NS and 26A[c] | [h] | 4.5 ±1.5% | — | 658 | — | [h] | 1490[i],[j] | 1300[i],[j] | 206 |

(a) Use only Type I Portland cement.

(b) For SFMC mixtures, the Contractor may use a blended silica fume Portland cement. However, if the silica fume content of the blended material is greater than 8% of the total cementitious material, submit to the Engineer modified mix proportions with Type I Portland cement added to the blended material to achieve the equivalent individual cementitious material mixture proportions.

(c) Provide coarse aggregate, 95% minimum crushed materials in accordance with Michigan Test Method (MTM) 117, with an absorption no greater than 2.5%, in accordance with ASTM C127.

(d) Water-reducing high-range admixture or water-reducing high-range and retarding admixture.

(e) Virgin polypropylene collated fibers at 2 lb/yd³.

(f) Air-entraining admixture.

(g) Provide a net water to cementitious material ratio of 0.41 (cementitious material includes cement and silica fume).

(h) Add water in addition to water in the latex admixture to control slump to within 3 to 5 inches. Measure slump from 4 to 5 minutes after discharge from the mixer. During the waiting period, deposit concrete on the deck and do not disturb. If placing mixtures on sections within superelevated curves, the Contractor may need to use the lower allowable range of the slump requirement, as determined by the Engineer. Do not exceed water-cement ratio, by weight, of 0.30 including water contained in the latex emulsion.

(i) Aggregate proportions are approximate; due to gradation changes, the Contractor may increase proportions by no greater than 5% by weight of total aggregate if reducing coarse aggregate by an equivalent volume.

(j) Aggregate weights specified in the table are based on a dry bulk specific gravity of 2.65 for gravel and stone. Adjust the weights if the specific gravity of the materials used varies by more than 0.02 from the specified values.

# STANDARD PLANS

# APPLICABLE SOIL EROSION AND SEDIMENTATION CONTROL MEASURES

(COMPREHENSIVE DETAILS ARE LOCATED IN SECTION 6 OF THE SOIL EROSION & SEDIMENTATION CONTROL MANUAL)

A = SLOPES

B = STREAMS AND WATERWAYS

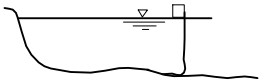
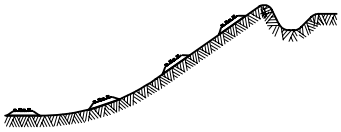
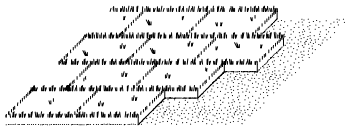
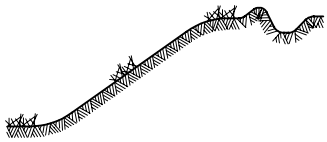
C = SURFACE DRAINAGEWAYS

D = ENCLOSED DRAINAGE (INLET & OUTFALL CONTROL)

E = LARGE FLAT SURFACE AREAS

F = BORROW AND STOCKPILE AREAS

G = DNRE PERMIT MAY BE REQUIRED

| KEY | DETAIL | CHARACTERISTICS | A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|---|---|---|
| 1 |  TURBIDITY CURTAIN | A Turbidity Curtain is used when slack water area is necessary to isolate construction activities from the watercourse. The still water area contains the sediments within the construction limits. | | ● | | | | | |
| 2 |  GRUBBING OMITTED | Retains existing root mat which assists in stabilizing slopes.<br>Assists in the revegetation process by providing sprout growth.<br>Reduces sheet flow velocities preventing rilling and gullying.<br>Discourages off-road vehicle use. | ● | | | | ● | | |
| 3 | PERMANENT/TEMPORARY SEEDING | Inexpensive but effective erosion control measure to stabilize flat areas and mild slopes.<br>Permits runoff to infiltrate soil, reducing runoff volumes.<br>Proper preparation of the seed bed, fertilizing, mulching and watering is critical to its success. | ● | | ● | | ● | ● | |
| 4 | DUST CONTROL | Dust control can be accomplished by watering, and/or applying calcium chloride.<br>The disturbed areas should be kept to a minimum.<br>PERMANENT/TEMPORARY SEEDING (KEY 3) should be applied as soon as possible. | ● | | | | ● | ● | |
| 5 |  SODDING | Provides immediate vegetative cover such as at spillways and ditch bottoms.<br>Proper preparation of the topsoil, placement of the sod, and watering is critical to its success. | ● | | | | ● | ● | |
| 6 |  VEGETATED BUFFER STRIPS | Reduces sheet flow velocities preventing rilling and gullying.<br>Assists in the collection of sediments by filtering runoff.<br>Assists in the establishment of a permanent vegetative cover. | ● | | | | ● | | |

MDOT Michigan Department of Transportation

PREPARED BY DESIGN DIVISION

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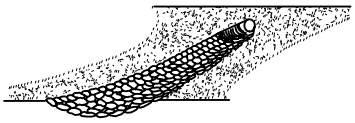
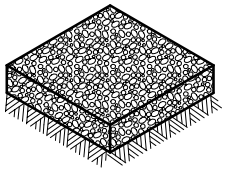
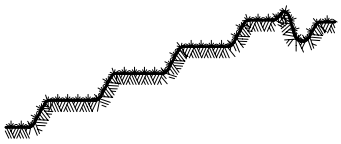
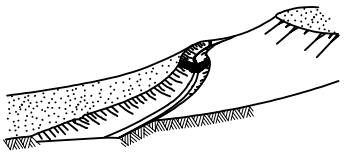
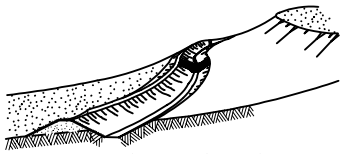
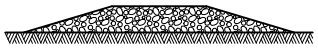
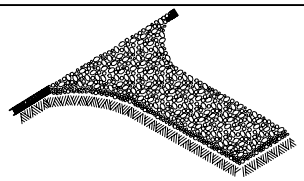
MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF HIGHWAY DEVELOPMENT STANDARD PLAN FOR

## SOIL EROSION & SEDIMENTATION CONTROL MEASURES

| 9-10-2010 | 6-3-2010 | R-96-E | SHEET |
|---|---|---|---|
| F.H.W.A. APPROVAL | PLAN DATE | | 1 OF 6 |

| KEY | DETAIL | CHARACTERISTICS | A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|---|---|---|
| 7 |  RIPRAP | Used where vegetation cannot be established.<br>Very effective in protecting against high velocity flows.<br>Should be placed over a geotextile liner. | ● | ● | ● | ● | | | ● |
| 8 |  AGGREGATE COVER | Can be used in any area where a stable condition is needed for construction operations, equipment storage or in heavy traffic areas.<br>Reduces potential soil erosion and fugitive dust by stabilizing raw areas. | ● | | | | ● | ● | |
| 9 |  BENCHES | Reduces sheet flow velocities preventing rilling and gullying.<br>Assists in the collection and filtering of sediments.<br>Provides access for stabilizing slopes. | ● | | | | | ● | |
| 10 | DIVERSION DIKE | Assists in the diversion of runoff to a stable outlet or sediment control device.<br>Reduces sheet flow velocities preventing rilling and gullying.<br>Collects and diverts runoff to properly stabilized drainage ways.<br>Works well with INTERCEPTING DITCH (KEY 11) | ● | | | | ● | ● | |
| 11 |  INTERCEPTING DITCH | Assists in the diversion of runoff to a stable outlet or sediment control device.<br>Reduces sheet flow velocities preventing rilling and gullying.<br>Works well with DIVERSION DIKE (KEY 10) | ● | | | | ● | ● | |
| 12 |  INTERCEPTING DITCH AND DIVERSION DIKE | Assists in the diversion of runoff to a stable outlet or sediment control device.<br>Reduces sheet flow velocities preventing rilling and gullying. | ● | | | | ● | ● | |
| 13 |  GRAVEL FILTER BERM | Useful in filtering flow prior to its reentry into a lake, stream or wetland.<br>Works well with SEDIMENT TRAP (KEY 20) and TEMPORARY BYPASS CHANNEL (KEY 35).<br>Not to be used in lieu of a CHECK DAM (KEY 37) in a ditch. | ● | | ● | | | ● | |
| 14 |  GRAVEL ACCESS APPROACH | Provides a stable access to roadways minimizing fugitive dust and tracking of materials onto public streets and highways. | | | | | ● | ● | |

MICHIGAN DEPARTMENT OF TRANSPORTATION
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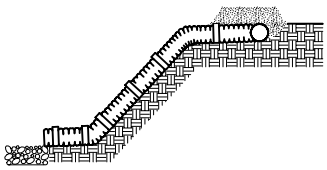
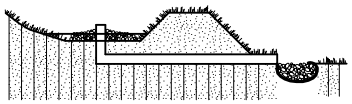
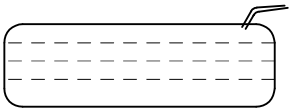
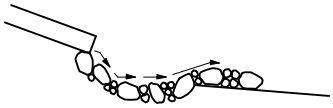
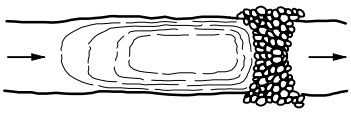
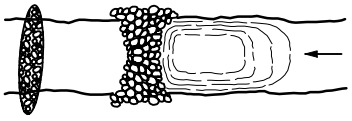
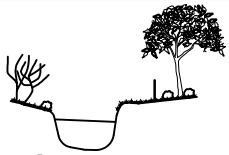
# SOIL EROSION & SEDIMENTATION CONTROL MEASURES

| 9-10-2010 F.H.W.A. APPROVAL | 6-3-2010 PLAN DATE | R-96-E | SHEET 2 OF 6 |
|---|---|---|---|

| KEY | DETAIL | CHARACTERISTICS | A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|---|---|---|
| 15 |  SLOPE DRAIN SURFACE | Excellent device for carrying water down slopes without creating an erosive condition. Generally used in conjunction with DIVERSION DIKE (KEY 10), INTERCEPTING DITCH (KEY 11) and INTERCEPTING DITCH AND DIVERSION DIKE (KEY 12) to direct flow to a stable discharge area or SEDIMENT TRAP (KEY 20). | ● | | ● | | | | |
| 16 | TREES, SHRUBS AND PERENNIALS | Trees, shrubs and perennials can provide low maintenance long term erosion protection. These plants may be particularly useful where site aesthetics are important along the roadside slopes. | ● | | | | ● | | |
| 17 |  PIPE DROP | Effective way to allow water to drop in elevation very rapidly without causing an erosive condition. Also works as a sediment collector device. May be left in place as a permanent erosion control device. | ● | | ● | | | | |
| 18 |  DEWATERING WITH FILTER BAG | It may be necessary to dewater from behind a cofferdam or construction dam to create a dry work site. Discharged water must be pumped to a filter bag. A GRAVEL FILTER BERM (KEY 13) may be placed downslope of the filter bag to provide additional filtration prior to entering any stream or wetland. | | ● | | | | | ● |
| 19 |  ENERGY DISSIPATORS | A device to prevent the erosive force of water from eroding soils. Used at outlets of culverts, drainage pipes or other conduits to reduce the velocity of the water. Prevents structure scouring and undermining. | ● | ● | ● | ● | | | |
| 20 |  SEDIMENT TRAP | Used to intercept concentrated flows and prevent sediments from being transported off site or into a watercourse or wetland. The size of a Sediment Trap is 5 cubic yards or less. Works well when used with CHECK DAM (KEY 37). | ● | | ● | ● | | | |
| 21 |  SEDIMENT BASIN | A Sediment Basin is used to trap sediments from an upstream construction site. Requires periodic inspections, repairs, and maintenance. Where practical, sediments should be contained on site. A Sediment Basin should be the last choice of sediment control. The size of a Sediment Basin is greater than 5 cubic yards. | | ● | | | | | ● |
| 22 |  VEGETATIVE BUFFER AT WATERCOURSE | This practice is used to maintain a vegetative buffer adjacent to a watercourse. When utilized with SILT FENCE (KEY 26) it will, under normal circumstances, prevent sediment from leaving the construction site. | ● | ● | ● | | ● | ● | |

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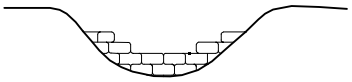
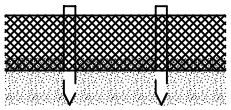
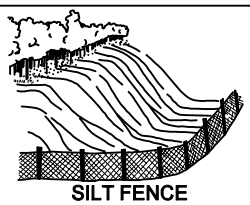
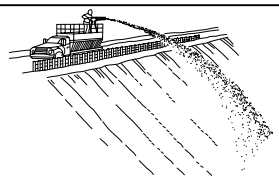
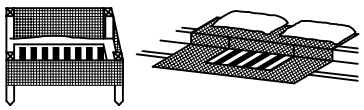
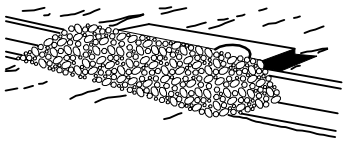
| 9-10-2010 F.H.W.A. APPROVAL | 6-3-2010 PLAN DATE | R-96-E | SHEET 3 OF 6 |
|---|---|---|---|

| KEY | DETAIL | CHARACTERISTICS | A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|---|---|---|
| 23 | STREAM RELOCATION | A detail depicting the proper procedures for stream relocation. Maintains same width, depth, and flow velocity as the natural stream. Revegetate banks with PERMANENT/TEMPORARY SEEDING (KEY 3), MULCHING AND MULCH ANCHORING (KEY 28), MULCH BLANKETS AND HIGH VELOCITY MULCH BLANKETS (KEY 33) and woody plants to shade the stream. | | ● | | | | | ● |
| 24 |  SAND AND STONE BAGS | Sand and stone bags are a useful tool in the prevention of erosion. Can be used to divert water around a construction site by creating a DIVERSION DIKE (KEY 10). Works well for creating a CONSTRUCTION DAM (KEY 36) and temporary culvert end fill. | ● | ● | ● | ● | ● | ● | ● |
| 25 |  SAND FENCE AND DUNE STABILIZATION | A Sand Fence traps blowing sand by reducing wind velocities. Can be used to prevent sand from blowing onto roads. Must be maintained until sand source is stabilized. | ● | | | | ● | ● | |
| 26 |  SILT FENCE | A permeable barrier erected below disturbed areas to capture sediments from sheet flow. Can be used to divert small volumes of water to stable outlets. Ineffective as a filter and should never be placed across streams or ditches where flow is concentrated. | ● | | | | ● | ● | |
| 27 | PLASTIC SHEETS OR GEOTEXTILE COVER | Plastic Sheets can be used to create a liner in temporary channels. Can also be used to create a temporary cover to prevent erosion of stockpiled materials. | ● | ● | ● | | | ● | |
| 28 |  MULCHING AND MULCH ANCHORING | Anchored mulch provides erosion protection against rain and wind. Mulch must be used on seeded areas to promote water retention and growth. Should be inspected after every rainstorm and repaired as necessary until vegetation is well established. | ● | | ● | | ● | ● | |
| 29 |  INLET PROTECTION FABRIC DROP | Provides settling and filtering of silt laden water prior to its entry into the drainage system. Can be used in median and side ditches where vegetation will be disturbed. Allows for early use of drainage systems prior to project completion. | | | ● | | ● | | |
| 30 |  INLET PROTECTION GEOTEXTILE AND STONE | Provides settling and filtering of silt laden water prior to its entry into the drainage system. Should be used in paved areas where drainage structures are existing or proposed. Allows for early use of drainage systems prior to project completion. | | | ● | | ● | | |

MICHIGAN DEPARTMENT OF TRANSPORTATION
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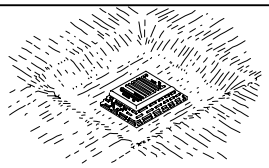
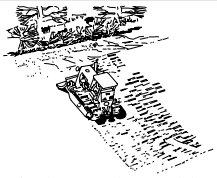
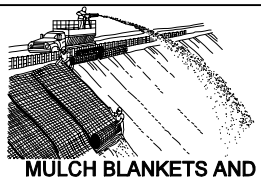
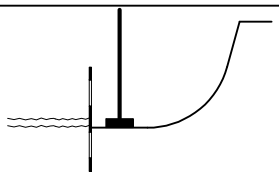
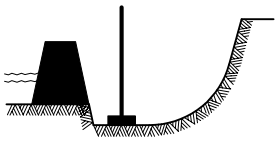
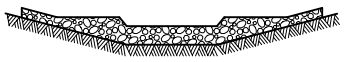
# SOIL EROSION & SEDIMENTATION CONTROL MEASURES

| 9-10-2010 F.H.W.A. APPROVAL | 6-3-2010 PLAN DATE | R-96-E | SHEET 4 OF 6 |
|---|---|---|---|

| KEY | DETAIL | CHARACTERISTICS | A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|---|---|---|
| 31 |  INLET PROTECTION SEDIMENT TRAP | An Inlet Protection Sediment Trap is a temporary device that can be used in areas where medium flows are anticipated.<br>Effective in trapping small quantities of sediments prior to water entering the drainage system.<br>Can be used in areas such as median and side ditches. | | | ● | | ● | | |
| 32 |  SLOPE ROUGHENING AND SCARIFICATION | A simple and economical way to reduce soil erosion by wind and water.<br>Can be accomplished by harrowing with a disk, back blading, or tracking with a dozer perpendicular to the slope. | ● | | | | ● | ● | |
| 33 |  MULCH BLANKETS AND HIGH VELOCITY MULCH BLANKETS | Mulch blankets provide an immediate and effective cover over raw erodible slopes affording excellent protection against rain and wind erosion.<br>High velocity mulch blankets work well for stabilizing the bottom of ditches in waterways. | ● | | ● | | ● | ● | |
| 34 |  COFFERDAM | Used to create a dry construction area and protect the stream from raw erodible areas.<br>Must be pumped dry or dewatered according to DEWATERING WITH FILTER BAG (KEY 18). | | ● | | | | | ● |
| 35 | TEMPORARY BYPASS CHANNEL | Utilized when a dry construction area is needed.<br>Isolates stream flows from raw erodible areas minimizing erosion and subsequent siltation.<br>Can incorporate SEDIMENT BASIN (KEY 21), CHECK DAM (KEY 37), and GRAVEL FILTER BERM (KEY 13) to remove sediments from water.<br>Construction sequence of events may be necessary. | | ● | | | | | ● |
| 36 |  CONSTRUCTION DAM | Used to create a dry or slack water area for construction.<br>Isolates the stream from raw erodible areas.<br>Can be created out of any non-erodible materials such as SAND AND STONE BAGS (KEY 24), a gravel dike with clay core or plastic liner, steel plates or plywood. | | ● | | | | | ● |
| 37 |  CHECK DAM | Can be constructed across ditches or any area of concentrated flow.<br>Protects vegetation in early stages of growth.<br>A Check Dam is intended to reduce water velocities and capture sediment.<br>A Check Dam is not a filtering device. | ● | | ● | | | ● | |

MICHIGAN DEPARTMENT OF TRANSPORTATION
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# SOIL EROSION & SEDIMENTATION CONTROL MEASURES

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|---|---|---|---|

NOTES:

THIS STANDARD PLAN WILL SERVE AS A KEY IN THE SELECTION OF THE APPROPRIATE SOIL EROSION AND SEDIMENTATION CONTROL DETAILS. THIS PLAN ALSO PROVIDES THE KEY TO THE NUMBERED EROSION CONTROL ITEMS SPECIFIED ON THE CONSTRUCTION PLANS. REFER TO THE MDOT SOIL EROSION & SEDIMENTATION CONTROL MANUAL, SECTION 6 FOR SPECIFIC DETAILS, CONTRACT ITEMS (PAY ITEMS), AND PAY UNITS.

COLLECTED SILT AND SEDIMENT SHALL BE REMOVED PERIODICALLY TO MAINTAIN THE EFFECTIVENESS OF THE SEDIMENT TRAP, SEDIMENT BASIN, AND SILT FENCE. AGGREGATES PLACED IN STREAMS SHOULD CONTAIN A MINIMUM OF FINES.

TEMPORARY EROSION AND SEDIMENTATION CONTROL PROVISIONS SHALL BE COORDINATED WITH THE PERMANENT CONTROL MEASURES TO ASSURE EFFECTIVE CONTROL OF SEDIMENTS DURING CONSTRUCTION OF THE PROJECT.

ALL TEMPORARY EROSION CONTROL DEVICES SHALL BE REMOVED AFTER VEGETATION ESTABLISHMENT OR AT THE DISCRETION OF THE ENGINEER. CARE SHALL BE TAKEN DURING REMOVAL TO MINIMIZE SILTATION IN NEARBY DRAINAGE COURSES.

MICHIGAN DEPARTMENT OF TRANSPORTATION

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# SOIL EROSION & SEDIMENTATION CONTROL MEASURES

| 9-10-2010<br>F.H.W.A. APPROVAL | 6-3-2010<br>PLAN DATE | R-96-E | SHEET<br>6 OF 6 |
|---|---|---|---|

MDOT
Michigan Department of Transportation

PREPARED BY
DESIGN
SUPPORT AREA

DRAWN BY: B.L.T.

CHECKED BY: W.K.P.

ENGINEER OF CONSTRUCTION & TECHNOLOGY

ENGINEER OF MAINTENANCE

ENGINEER OF TRAFFIC AND SAFETY

ENGINEER OF DESIGN SUPPORT AREA

DEPARTMENT DIRECTOR
Gloria J. Jeff

ENGINEER OF DEVELOPMENT

11-14-2003
F.H.W.A. APPROVAL

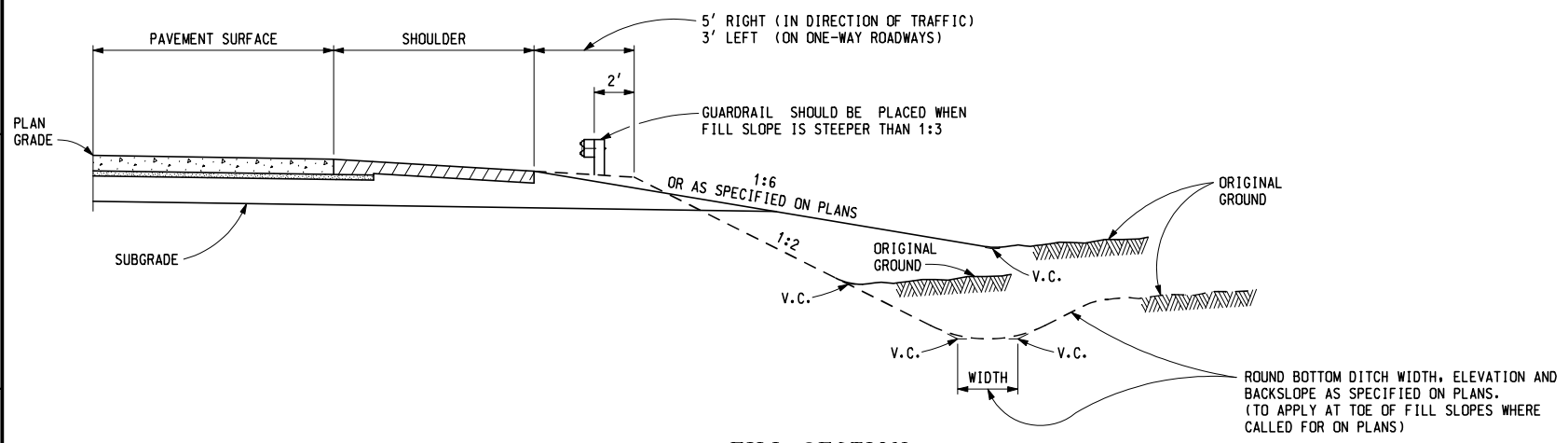
6-19-2002
PLAN DATE

R-105-D

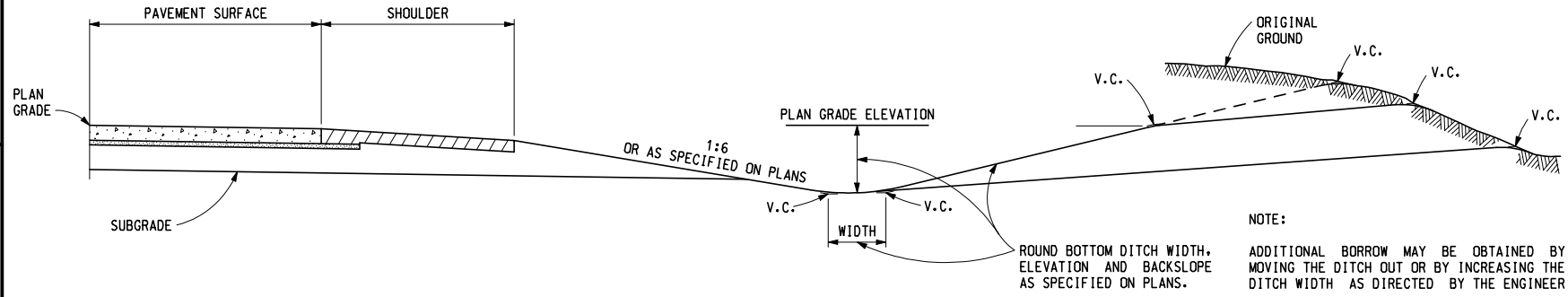
SHEET
1 OF 6

MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF HIGHWAY DEVELOPMENT STANDARD PLAN FOR

# GRADING CROSS-SECTIONS



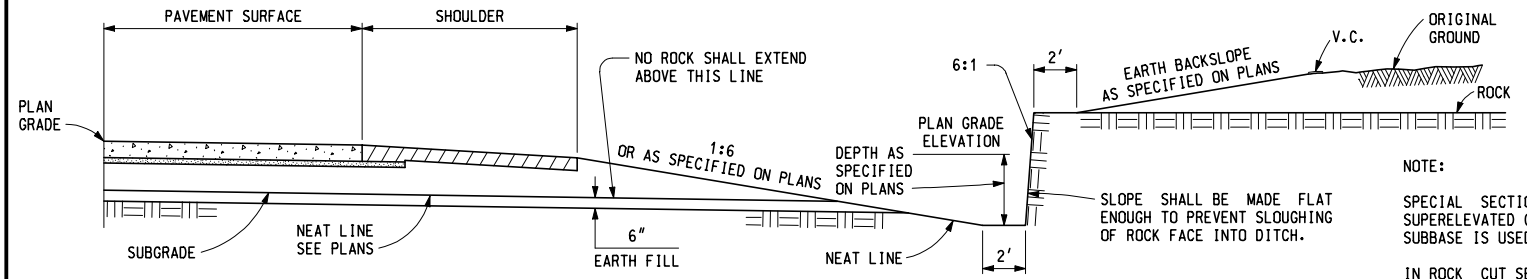

## FILL SECTION




NOTE:

ADDITIONAL BORROW MAY BE OBTAINED BY MOVING THE DITCH OUT OR BY INCREASING THE DITCH WIDTH AS DIRECTED BY THE ENGINEER

## CUT - OFF OR SIDE BORROW SECTION




NOTE:

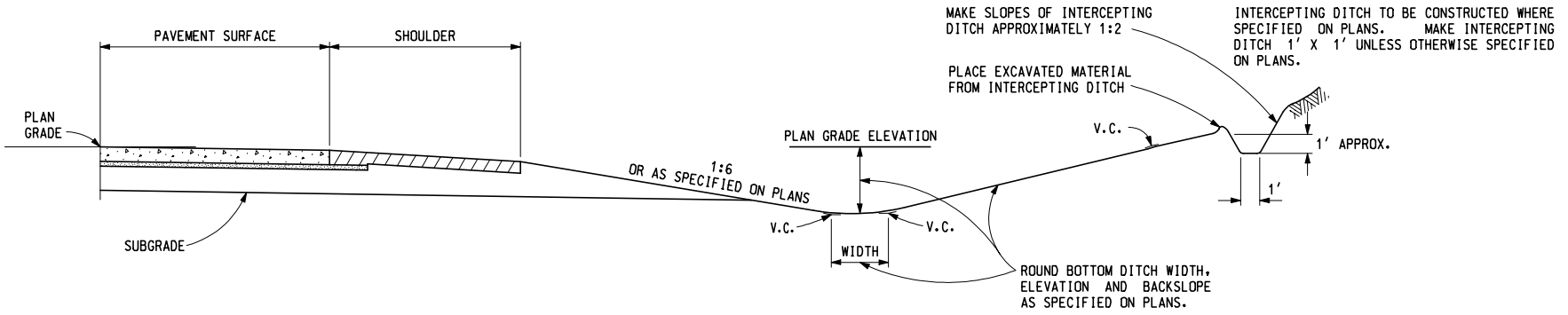
ROCK EXCAVATION WILL BE PAID FOR TO THE NEAT LINE SHOWN.

NOTE:

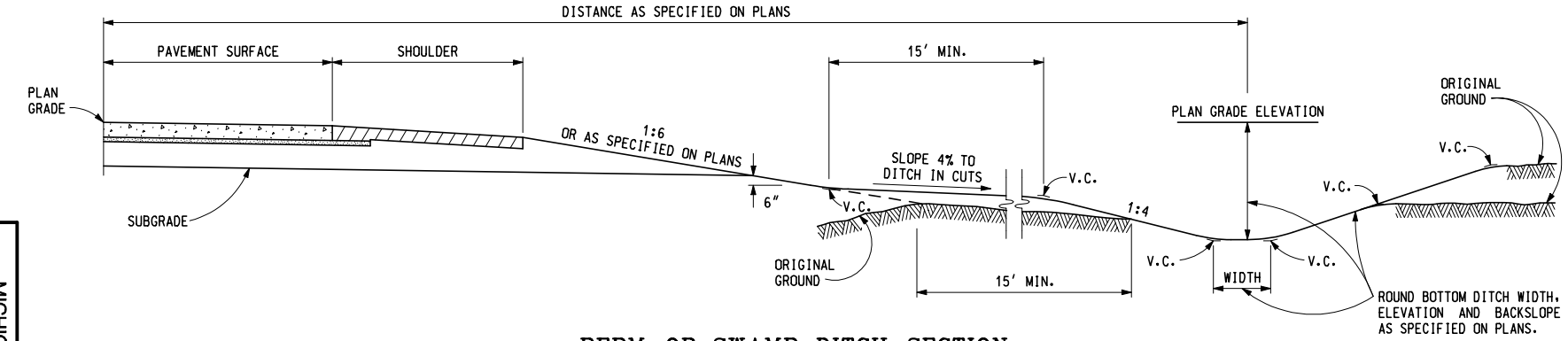
SPECIAL SECTIONS ARE NECESSARY ON SUPERELEVATED CURVES AND WHERE DEEP SUBBASE IS USED.

IN ROCK CUT SECTIONS, THE NEED FOR A CONCRETE BARRIER OR OTHER TYPE OF PROTECTION SHOULD BE EVALUATED.

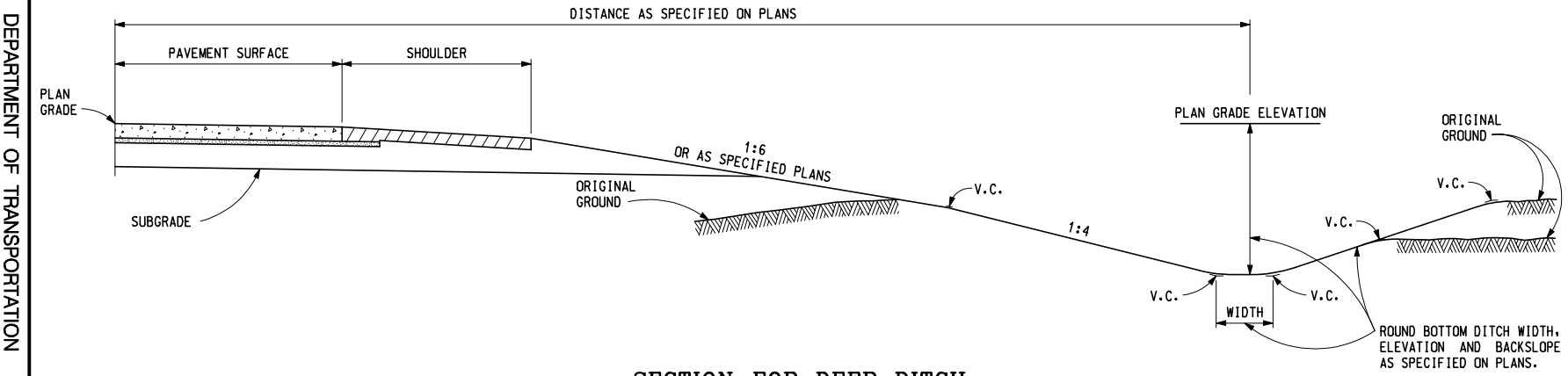
## ROCK CUT SECTION




## ROUND BOTTOM DITCH SECTION




## BERM OR SWAMP DITCH SECTION

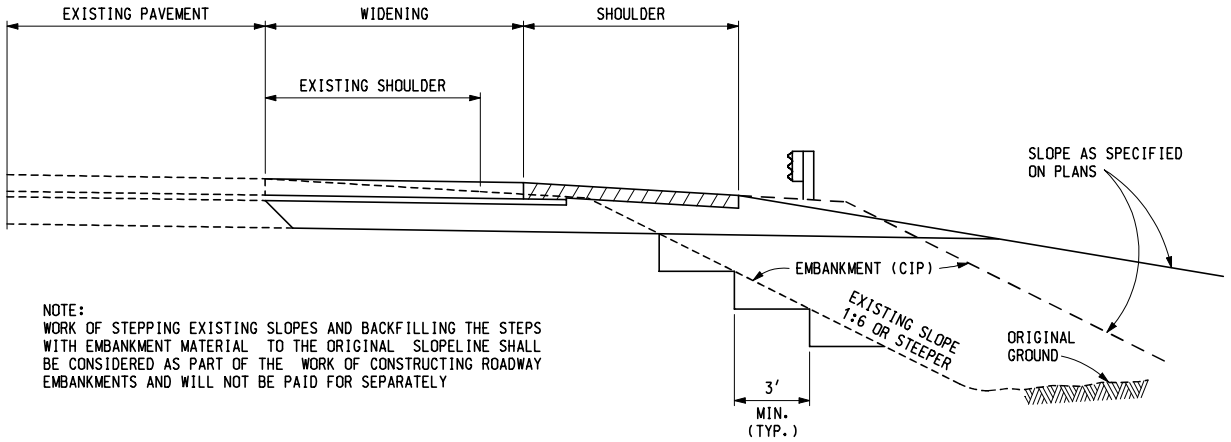



## SECTION FOR DEEP DITCH

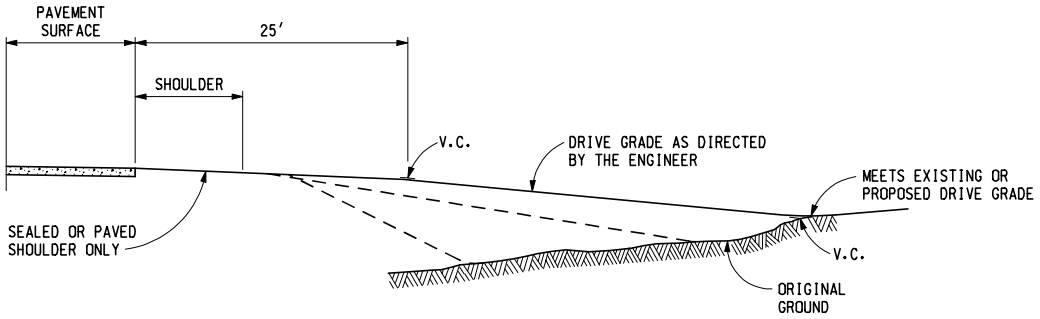
MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF HIGHWAY DEVELOPMENT STANDARD PLAN FOR

# GRADING CROSS-SECTIONS

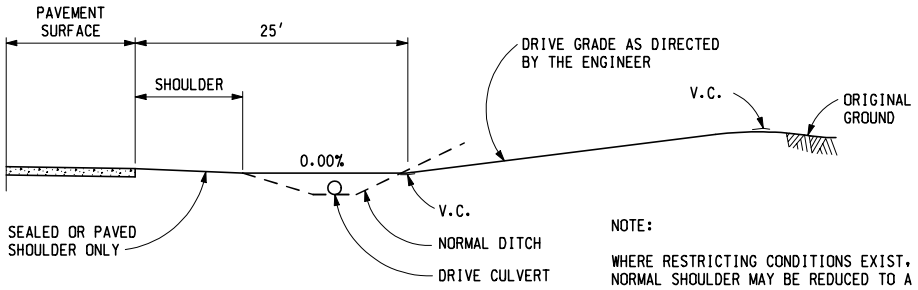
| | |
|---|---|
| 11-14-2003 F.H.W.A. APPROVAL | |
| 6-19-2002 PLAN DATE | |
| R-105-D | SHEET 2 OF 6 |




## ADDING EMBANKMENT TO EXISTING SLOPES



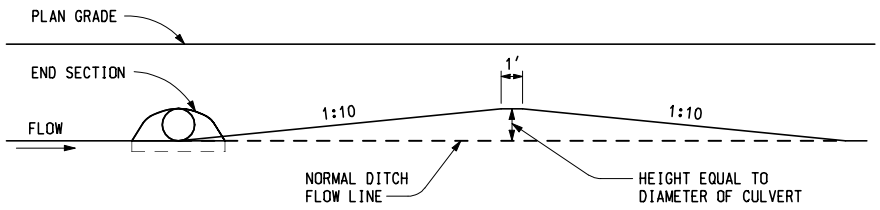

## GRADING OF DRIVES IN FILL SECTIONS




NOTE:

WHERE RESTRICTING CONDITIONS EXIST, THE FLAT AREA DISTANCE OUTSIDE THE NORMAL SHOULDER MAY BE REDUCED TO A MINIMUM OF 4′ VERTICAL CURVE. IN ALL CASES THE NORMAL FULL WIDTH SHOULDER SHALL BE MAINTAINED AND THE FLAT AREA SHOULD BE MAXIMIZED.

## GRADING OF DRIVES IN CUT SECTIONS



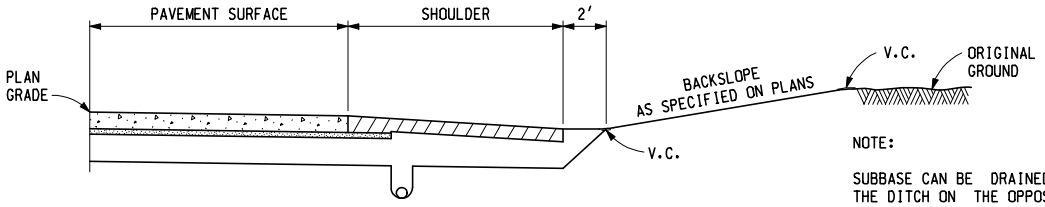

## DIKE IN DITCH SECTION

MICHIGAN DEPARTMENT OF TRANSPORTATION

BUREAU OF HIGHWAY DEVELOPMENT STANDARD PLAN FOR

# GRADING CROSS-SECTIONS

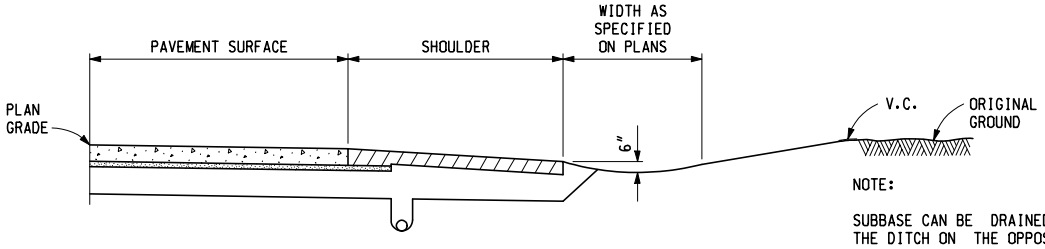
| 11-14-2003 F.H.W.A. APPROVAL | 6-19-2002 PLAN DATE | R-105-D | SHEET 3 OF 6 |
|---|---|---|---|




NOTE:

SUBBASE CAN BE DRAINED WITH UNDER DRAIN OR ONE-WAY TO THE DITCH ON THE OPPOSITE SIDE. SHORT SECTIONS CAN BE DRAINED LONGITUDINALLY. SEE STANDARD PLAN R-80-SERIES.

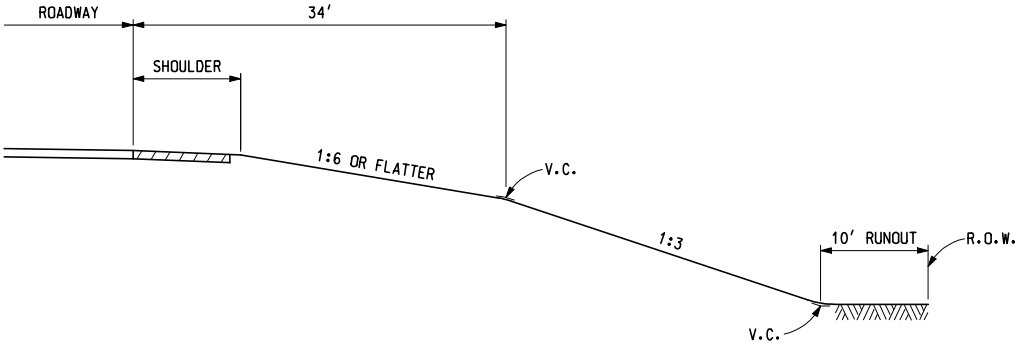
## NO DITCH SECTION




NOTE:

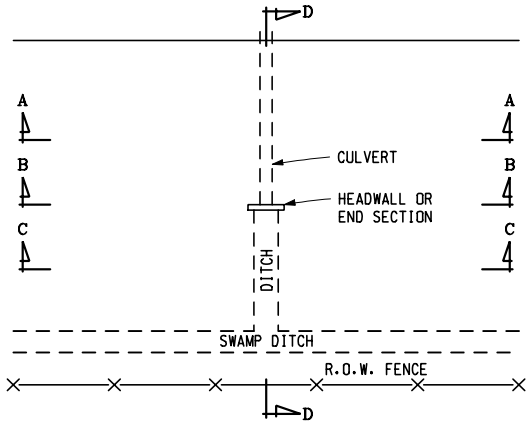
SUBBASE CAN BE DRAINED WITH UNDER DRAIN OR ONE-WAY TO THE DITCH ON THE OPPOSITE SIDE. SHORT SECTIONS CAN BE DRAINED LONGITUDINALLY. SEE STANDARD PLAN R-80-SERIES.

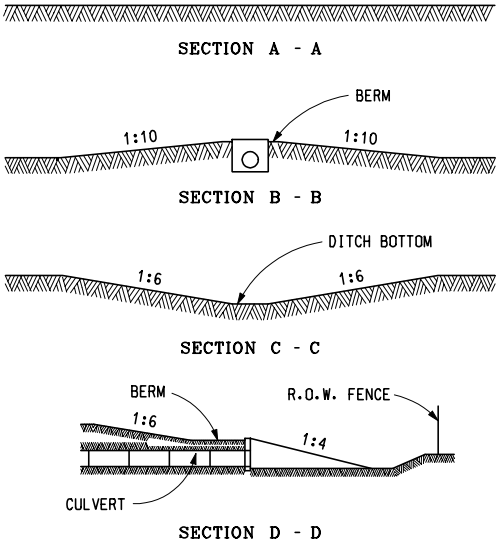
## VALLEY DITCH SECTION




## BARN ROOF FILL SECTION

(TO APPLY ON TANGENT SECTIONS ONLY)



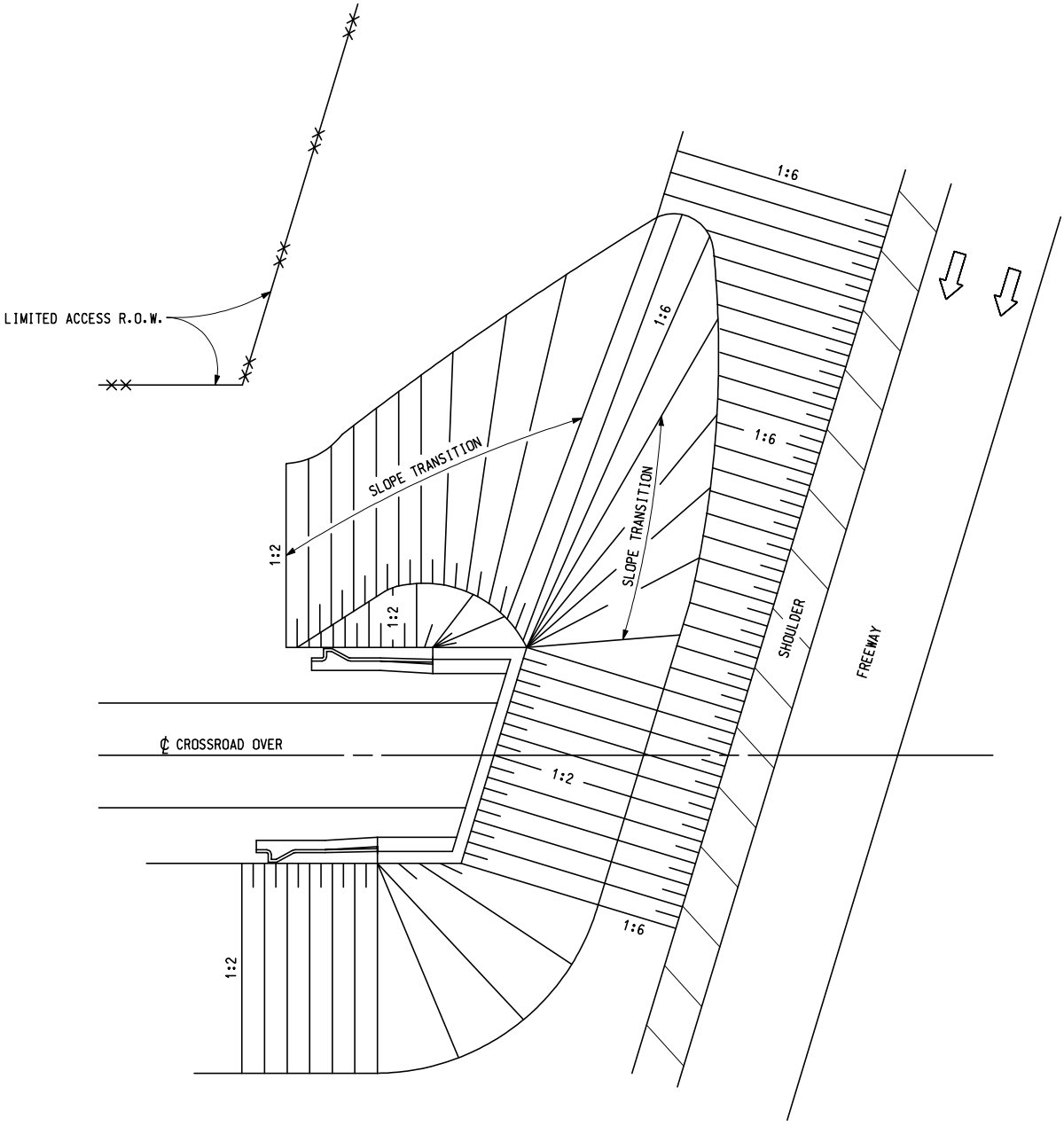

## OUTLET CULVERT IN BERM OR SWAMP DITCH SECTION

MICHIGAN DEPARTMENT OF TRANSPORTATION

BUREAU OF HIGHWAY DEVELOPMENT STANDARD PLAN FOR

# GRADING CROSS-SECTIONS

| 11-14-2003 F.H.W.A. APPROVAL | 6-19-2002 PLAN DATE | R-105-D | SHEET 4 OF 6 |
|---|---|---|---|




NOTE:

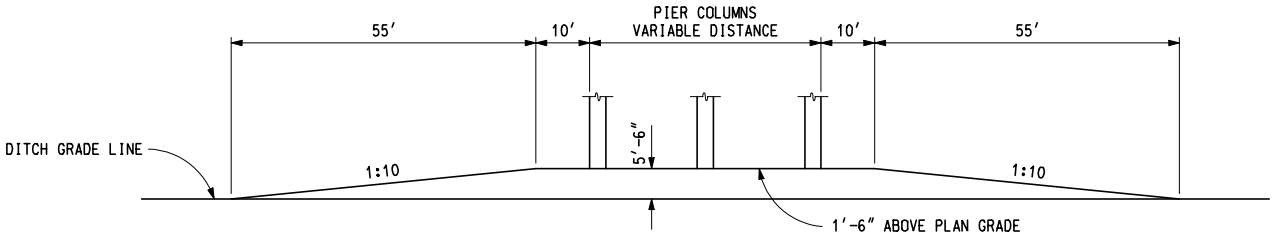
THE 1:6 SLOPE FACING FREEWAY TRAFFIC SHOULD BE USED ON ALL NEW CONSTRUCTION UNLESS THE DISTANCE FROM THE EDGE OF THE NEAREST FREEWAY THROUGH LANE TO THE TOE OF THE 1:2 SLOPE UNDER THE BRIDGE EXCEEDS THE CLEAR ZONE.

## GRADING DETAILS FOR FLATTENING LONG SLOPE AT BRIDGE APPROACH FILLS FACING ONCOMING TRAFFIC

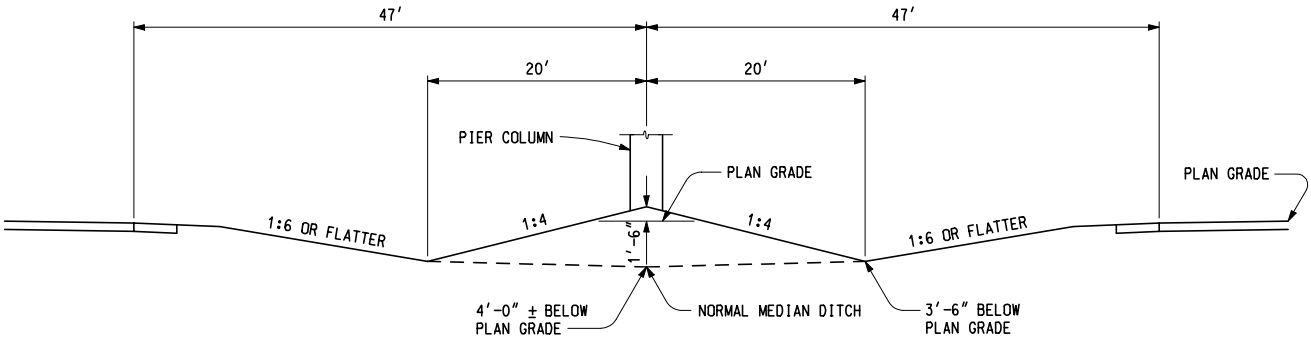
MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF HIGHWAY DEVELOPMENT STANDARD PLAN FOR

# GRADING CROSS-SECTIONS

| 11-14-2003 F.H.W.A. APPROVAL | 6-19-2002 PLAN DATE | R-105-D | SHEET 5 OF 6 |
|---|---|---|---|




LONGITUDINAL SECTION ALONG MEDIAN




TRANSVERSE SECTION AT STRUCTURES

# TYPICAL GRADING DETAILS AROUND PIERS FOR MEDIANS 94′ OR WIDER

NOTES:

THIS STANDARD APPLIES PRINCIPALLY FOR VARIOUS DITCH TYPES AND FOR THE ROUNDING OF SLOPES. THE SUBGRADE WILL BE SPECIFIED ON THE PLANS. SLOPES OTHER THAN THOSE SPECIFIED ON THIS PLAN MAY BE USED WHEN THEY ARE SPECIFIED ON THE PROJECT PLANS. IN THE EVENT OF A DISCREPANCY BETWEEN THIS PLAN AND THE PROJECT PLANS, THE PROJECT PLANS WILL GOVERN.

SEE CURRENT STANDARD PLAN R-107-SERIES FOR SUPERELEVATED SECTIONS.

DITCHES SHOULD ALWAYS BE DEEP ENOUGH TO GRAVITY DRAIN THE SUBBASE, WHERE SUBBASE IS USED.

THE SUBGRADE SHOULD BE SLOPED TO DRAIN TO THE OUTSIDE DITCH IF THE MEDIAN ON DUAL ROADWAYS IS OF INSUFFICIENT WIDTH TO ALLOW DITCHES DEEP ENOUGH TO DRAIN THE SUBBASE.

THE TOP OF BACKSLOPES AND THE BOTTOM OF FILL SLOPES SHALL BE ROUNDED WITH VERTICAL CURVES AS FOLLOWS, PROVIDED TREES OR OTHER RESTRICTIONS DO NOT INTERFERE:

1. USE 4′ VERTICAL CURVE ON CUTS OR FILLS LESS THAN 4′.
2. USE 8′ TO A MAXIMUM 16′ VERTICAL CURVE ON CUTS OR FILLS 4′ TO 16′.
3. USE A MAXIMUM 16′ VERTICAL CURVE ON CUTS OR FILLS GREATER THAN 16′.

ALL TRANSITIONS IN LENGTH OF VERTICAL CURVES SHALL BE GRADUAL AND GRADED TO PRESENT A UNIFORM AND ATTRACTIVE APPEARANCE.

WHEN 1:6 OR FLATTER SLOPES CANNOT BE CONSTRUCTED WITHIN THE EXISTING R.O.W., THE BARN ROOF FILL SECTION MAY BE USED TO ELIMINATE THE NEED FOR ADDITIONAL R.O.W.. THEY WILL BE USED ONLY WHERE SPECIFIED ON THE PLANS.

MICHIGAN DEPARTMENT OF TRANSPORTATION
BUREAU OF HIGHWAY DEVELOPMENT STANDARD PLAN FOR

## GRADING CROSS-SECTIONS

| 11-14-2003 F.H.W.A. APPROVAL | 6-19-2002 PLAN DATE | R-105-D | SHEET 6 OF 6 |
|---|---|---|---|

# UNIQUE SPECIAL PROVISIONS

SPECIAL PROVISION

FOR

**DIVISION 1 CONTRACT**

UPEA:CWR 1 of 1 09/01/2020

**Definitions**

Subsection 101.02 of the 2020 Standard Specifications is hereby amended to include the following definitions:

**Owner:**

Baraga County Road Commission, its Engineer/Manager, Officers, Board of Road Commissioners and staff.

**Engineer:**

U.P. Engineers & Architects, Inc., its officers, agents and employees.

**Standard Specifications:**

Applicable provisions of the Michigan Department of Transportation 2020 Standard Specifications for Construction shall apply, except as modified herein by the EJCDC General Conditions, Supplementary Conditions and other contract provisions included in this specification. The EJCDC contract provisions shall prevail over Division 1 of the MDOT Standard Specifications in the event of conflicting conditions. The Michigan Department of Transportation 2020 Standard Specifications for Construction Division 2 through Division 9 will be followed for all construction, measurement and payment, unless modified otherwise in the Special Provisions.

BARAGA COUNTY ROAD COMMISSION

SPECIAL PROVISION

FOR

# MAINTAINING TRAFFIC



## GENERAL

Traffic will be maintained in accordance with Sections 104.11, 812 and 922 of the 2020 MDOT Standard Specifications for Construction, including any Supplemental Specifications, and as herein specified.

The Contractor will notify the Engineer a minimum of 72 hours prior to the implementation of any detours, road closures, lane closures or major traffic shifts.

## CONSTRUCTION INFLUENCE AREA (CIA)

The CIA shall include the right-of-way of the following roadways and intersections roadways, within the approximate limits described below:

Sutinen Road from US-41 to the turnaround at the end of Sutinen Road

Payne Road from US-41 to the turnaround at the end of Payne Road

In addition, the CIA will include the Right-of-Way of any intersecting road or street adjacent to the project work area for approximately 550 feet in each direction or to the nearest crossroad, and the Right-of-Way of all roads with any temporary signing

## TRAFFIC RESTRICTIONS

All work shall be conducted during daytime hours only. No work shall occur during any federal and state holidays. Weekend work may be allowed at the discretion of the Owner/Engineer. Maintain traffic in accordance with the maintaining traffic typicals listed below. Changes or adjustments to the maintaining traffic typicals may be necessary to fit field conditions, subject to approval of the Engineer or as determined by the Engineer.

1. 101-GEN-SPACING-CHARTS
2. 102-GEN-NOTES
3. 103-GEN-SIGN

Contractor shall place “Road Work Ahead” (W20-1) signs on US-41 in both directions with “Sutinen Rd” or “Payne Rd” placards beneath the Road Work Ahead sign and place a “Road Work Ahead” (W20-1) sign near the intersection of US-41 and the subject road on the subject road.

## TRAFFIC CONTROL DEVICES

### General

All traffic control devices and their usage shall conform to the Michigan Manual of Uniform Traffic Control Devices (MMUTCD), 2011 edition, and as specified herein. During working and non-

working periods, any work site with uncompleted work shall have advance signs (W20-1 "ROAD WORK AHEAD") at specific locations, as directed by the Engineer. Signing shall be maintained as required in the MDOT 2020 Standard Specifications for Construction.

It will be the Contractor's responsibility to supply, fabricate, erect, maintain, relocate, and remove all traffic control devices necessary for maintaining traffic within the CIA.

The Contractor shall routinely maintain the traffic control devices. Routine maintenance includes, but is not limited to, cleaning, maintaining proper placement, weighting with sandbags, and replacing lost or damaged devices.

### Temporary Signs

All diamond-shaped warning signs shall be 48 inches x 48 inches. Where they are no longer applicable, they will be removed. None of the proposed temporary signage shall obstruct the view of existing permanent signs.

Place all signs at spacing that conform to typical detail 101-GEN-SPACING-CHARTS.

Signs, barricades and plastic drums are to be clean across the entire reflective surface. During non-working hours, all signs and barricades and plastic drums shall remain in place.

## MEASUREMENT AND PAYMENT

All traffic control devices, signage and barricades will be paid for at the unit price as listed in the bid form, throughout the construction of the project. Contractor is responsible for providing and maintaining traffic control items to complete the work. Any additional signage or traffic maintenance items required to expedite the construction will be at the Contractor's expense and shall be included in each unit price.

# PERMITS (obtained by Owner)

MDOT R-O-W Permit

All other required permits are the responsibility of the Contractor

MDOT
Michigan Department of Transportation

# INDIVIDUAL CONSTRUCTION PERMIT

## For Operations within State Highway Right-of-Way

**Issued To:**
**Baraga County Road Commission**

**18139 US Hwy 41**
**L'Anse MI 49946**

**Contact:**
**Doug Mills, P.E., Engineer/Manager**
**906-524-7270(O)**
**dmills@baragacountyroads.org**

**Secondary Contact:**
**Josh Harju, Consultant**
**906-482-4810 Extn:1327**
**jharju@upea.com**

**Permit Number:** 07013-088851-22-090922
**Permit Type:** Individual Application
**Permit Fee:** $.00
**Effective Date:** Sep 09, 2022 to Sep 09, 2023
**Bond Numbers:**
**Liability Insurance Expiration Date:**

**Contractor:**

**Baraga County Road Commission**

**18139 US-41, P.O. Box 217**
**L'Anse MI 49946**

**Contact:**

**Doug Mills, P.E., Engineer/Manager**

**906-524-7270(O) 906-524-7270(Cell)**
**dmills@baragacountyroads.o**

**THIS PERMIT IS VALID ONLY FOR THE FOLLOWING PROPOSED OPERATIONS:**

**PURPOSE:**

To place advance warning signs within MDOT R-O-W to complete machine grading and place an aggregate surface course on Sutinen Road and Payne Road in Baraga Township, Baraga County, MI. Road Work Ahead signs will be placed in advance of both road intersections with US-41 along with street name placards below the Road Work Ahead Signs.

**STATE ROUTE:** US-41 **TOWNSHIP OF:** Baraga **COUNTY:** Baraga County

| NEAREST INTERSECTION: | SIDE OF ROAD: | DISTANCE TO NEAREST INTERSECTION: (in feet) | DIRECTION TO NEAREST INTERECTION: |
|---|---|---|---|
| Sutinen Road | E W | 75.00 | West |

| CONTROL SECTION: | MILE POINT FROM: | MILE POINT TO: | LOCATION: | | | |
|---|---|---|---|---|---|---|
| | | | LEFT | MEDIAN | RIGHT | TRANSVERSE |
| 07013 | 7.910 | 8.470 | X | | X | |

| REQUISITION NUMBER: | WORK ORDER NUMBER: | MDOT JOB NUMBER: | ORG JOB NUMBER: |
|---|---|---|---|

**07013-088851-22-090922 Issued To:Baraga County Road Commission**

**This permit is incomplete without "General Conditions and Supplemental Specifications"**

**I certify that I accept the following:**

1. I am the legal owner of this property or facility, the owner's authorized representative, or have statutory authority to work within state highway Right-of-Way.
2. Commencement of work set forth in the permit application constitutes acceptance of the permit as issued.
3. Failure to object, ***within ten (10) days*** to the permit as issued constitutes acceptance of the permit as issued.
4. If this permit is accepted by either of the above methods, I will comply with the provisions of the permit.
5. I agree that Advance Notice for Permitted Activities for shall be submitted **5 days prior** to the commencement of the proposed work.

   I agree that Advance Notice for Permitted Utility Tree Trimming and Tree Removal Activities shall be submitted **15 days prior** to the commencement of the proposed work for an annual permit.

## CAUTION

**Work shall NOT begin until the Advance Notice has been approved.**

**Failure to submit the advance notice may result in a Stop Work Order.**

| | | |
|---|---|---|
| **Baraga County Road Commission** | **Benjamin Carrigan**<br>**MDOT** | September 09, 202<br>**Approved Date** |
| **TSC Contact Info** | **Ishpeming TSC** | **(906) 485-4270** |

**THE STANDARD ATTACHMENTS, ATTACHMENTS AND SPECIAL CONDITIONS MARKED BELOW ARE A PART OF THIS PERMIT.**

**STANDARD ATTACHMENTS:**

1 Mobility Flowchart for Permit Activities (2204C)
2 ENVIRONMENTAL REQUIREMENTS FORACTIVITIES WITHIN MDOT RIGHT-OF-WAY (2486)
3 System Operation Advisory-Fluorescent Sheeting Implementaton Sept. 20, 2016 (SOA[Fluorescent Sheeting
4 General Conditions (General Conditions)

**ADDITIONAL ATTACHMENTS:**

1 Sign Placement.pdf
2 Baraga County Road Commission 4.11.22.pdf
3 L D and B Valuesm0020a.pdf

**AMENDMENT ATTACHMENTS:**

**07013-088851-22-090922 Issued To:Baraga County Road Commission**

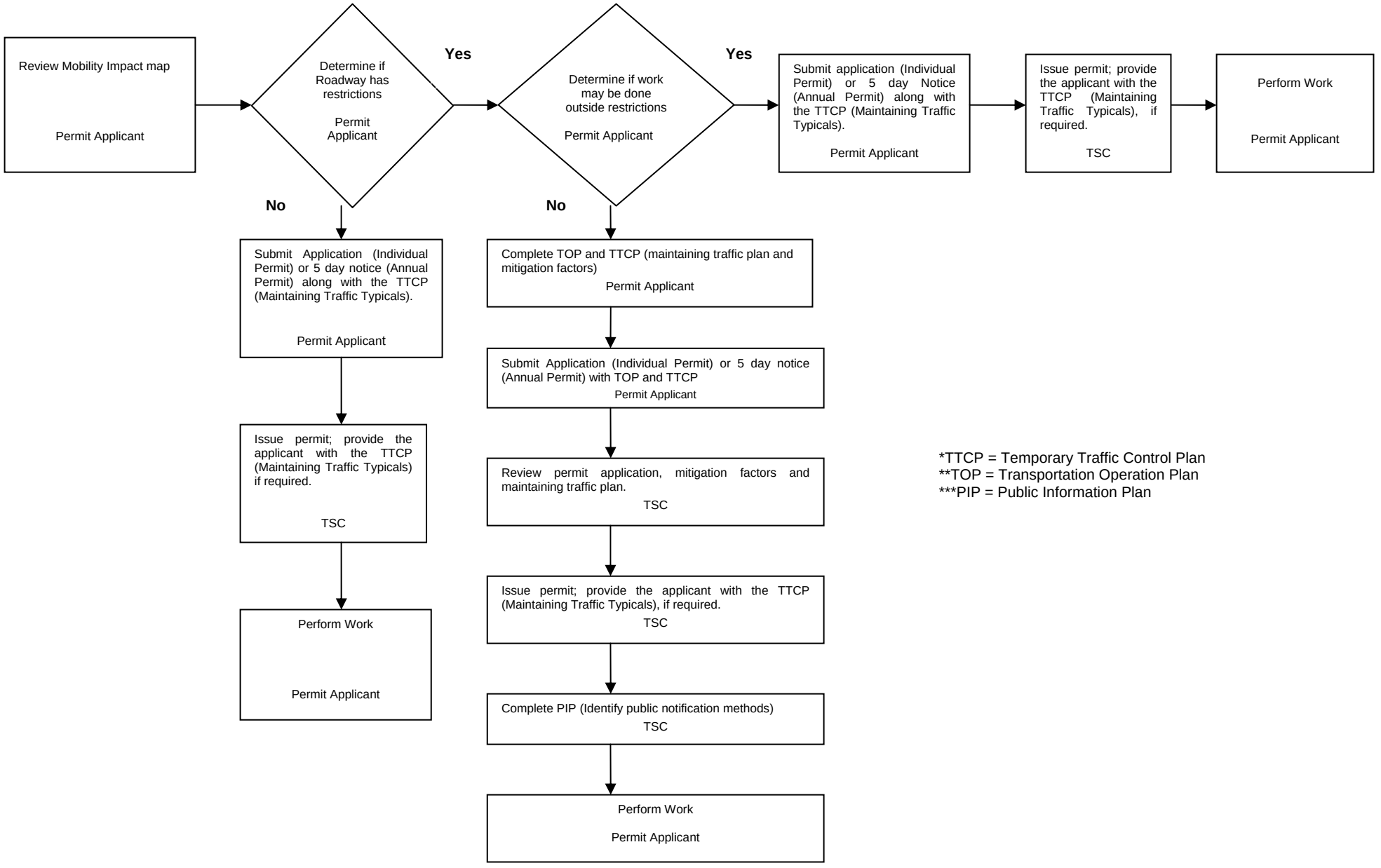
**SPECIAL CONDITIONS:**

1 The Department of Transportation does not, by issuance of this permit, assume any liability claims or maintenance costs resulting from the Work Zone Signing facility placed by this permit. The Department reserves the right to require removal of all or any portion of this facility as needed for highway maintenance or construction purposes without replacement or reimbursement of any costs incurred by the permitted or other party. The permitted will defend, indemnify and hold harmless the Department for any claims whatsoever resulting from the construction or the removal of the authorized by this permit.

2 All disturbed areas within the right of way shall be top-soiled, seeded and mulched to match existing areas per current MDOT standards and specifications.

Michigan Department
Of Transportation
2204C (11/08)

# Mobility Flowchart for Permit Activities




*TTCP = Temporary Traffic Control Plan
**TOP = Transportation Operation Plan
***PIP = Public Information Plan

Michigan Department
of Transportation
2486 (03/14)

# ENVIRONMENTAL REQUIREMENTS FOR ACTIVITIES WITHIN MDOT RIGHT-OF-WAY

Issuance of a permit by MDOT does not relieve the permit applicant from meeting any and all requirements of law, or of other public bodies or agencies, including but not limited to the following:

1. Goemare-Anderson Wetland Protection Act, Part 303, P.A. 451 of 1994

   Any activity that involves excavation or fill, located within a regulated wetland, requires a Michigan Department of Environmental Quality (MDEQ) permit. Regulated wetlands are those systems that are contiguous to a lake or stream (within 500 feet) or greater than five (5) acres in size.

2. Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994

   Any activity located within the ordinary high-water mark of a regulated body of water, i.e., lake, stream, drain, pond. etc., shall require a permit. There are no exemptions to this requirement. Permit applications and questions can be submitted to the MDEQ's Land and Water Management Division.

3. Soil Erosion and Sedimentation Control Act, Part 91, P.A. 451 1994

   Any land disturbance of one (1) acre or greater, or that is located within 500 feet of a lake or stream, requires a soil erosion permit. Municipalities who are classified as an Authorized Public Agency (APA) are exempt from permits, but must follow proper soil erosion practices as identified in their standard plan. Any construction activity located within MDOT Right-of-Way that is authorized by a MDOT permit is the responsibility of the permit applicant and is not covered under MDOT's APA authority.

   Soil erosion and sedimentation controls are required on all projects, even if a soil erosion permit is not required. Individuals performing work shall prevent sediment from entering any body of water or leaving the Right-of-Way. Permits can be obtained from the county/municipal agencies. Minor earth changes are exempted in this Act and are classified as normal maintenance and emergency repairs.

4. Clean Water Act: National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Requirements for Construction Activities

   Any land disturbance of five (5) acres or greater requires an NPDES Storm Water Discharge Permit. This can include any filling, excavating, grading, clearing, etc. Municipally-owned utilities who service a population of less than 100,000 are exempt from permit provisions, but not from environmental protection requirements. Permit applications require the Part 31, P.A. 451 permit number, or a declaration of APA status and the effective date. Permit applications and questions can be submitted to the MDEQ's Surface Water Quality Division.

5. Environmental Site Closures

   A procedure was developed by the MDEQ and MDOT which may allow a property owner, who is responsible for of these sites, to close an environmentally impacted site. Questions regarding this activity shall be addressed by contacting MDOT's Environmental Specialist at 517-335-2271.

6. The Land and Water Management Division of the MDEQ also administers the following environmental laws which may require review prior to construction:
   - Sand Dune Protection Act, Part 353, P.A. 451 of 1994.
   - Shore-lands Protection and Management, Part 323, P.A. 451 of 1994.
   - Great Lakes Submerged Lands Act, Part 325, and P.A. 451 of 1994.

7. The Wildlife Division of the MDNR also administers the following environmental laws which may require review prior to construction:
   - Endangered Species Act, Part 365, and P.A. 451 of 1994.

Questions regarding these permits may be addressed by contacting the nearest MDEQ district field office, or the MDEQ Land and Water Management Division at 517-373-1170.

Additional information is available in MDOT's Environmental Procedures Manual.

# System Operations Advisory

**SOA 2016-002**
May 1, 2016
**Revised: 9/30/2016**

From Mark Geib, Engineer of Operations Field Services Division

**MDOT**
**Division of Operations**
**6333 Lansing Road**
**Lansing, MI 48917**
**Fax/517-322-3385**

Questions regarding this advisory should be directed to:

Chris Brookes
Work Zone Delivery Engineer
(517) 636 -0300
Brookesc@michigan.gov

Or

Chuck Bergmann
Work Zone Tech Specialist
(517)322-3314
Bergmannc@michigan.gov

## Fluorescent Sheeting Implementation

The Michigan Department of Transportation (MDOT) has been working with Michigan Infrastructure and Transportation Association (MITA) and its industry partners on the use of a 6-inch wide angle prismatic lens reflective sheeting for reflectorizing reboundable traffic control devices such as drums and 42-inch channelizing devices. MDOT, MITA, and industry partners piloted a number of successful projects over the last two years and have been working jointly to develop an implementation plan. Safety for both the motoring public and the workers is the number one reason for this change. Fluorescent reflective sheeting can increase distance visibility providing up to 2.5 seconds of additional driver reaction time at 55 MPH, compared with high intensity sheeting. Additionally, during weather events and low light conditions when approximately 35 percent of work zone crashes occur historically in Michigan, improved motorist visibility will reduce the potential of a traffic crash or fatality. This is a safety initiative that will help reach MDOT's goal of "Towards Zero Deaths".

Specification will be according to ASTM D 4956. The fluorescent orange sheeting color must have a daytime luminance factor that meets or exceeds 20, (ASTM D 4956 Table 2 – Daytime Luminance Factor (Y %), and the fluorescent orange and white sheeting classified as Type IV sheeting. For projects incorporating the new sheeting the following pay items will be used:

- "Plastic Drum, Fluorescent, Furn"
- "Plastic Drum, Fluorescent, Oper"
- "Channelizing Device, 42 Inch, Fluorescent, Furn"
- "Channelizing Device, 42 Inch, Fluorescent, Oper"

The following implementation plan was based on the average service life of the drums and 42-inch channelizing devices, which will allow industry to upgrade during the normal replacement cycle. The schedule detailed below, provides inclusion beginning with October 2017 project lettings on the interstate system.

The phase in period is described below for project letting dates:

- Official notification to industry of the upcoming phase in period was provided on 4/7/2016.
- Project lettings on or after 10/1/2017 – Type IV Fluorescent Orange and Type IV White required on all “I” routes.
- Project lettings on or after 10/1/2018 – Type IV Fluorescent Orange and Type IV White required on all “BR”, “US”, and “M” routes.
- Project lettings on or after 10/1/2020 – Type IV Fluorescent Orange and Type IV White required on all projects let through MDOT including local agency projects.
- Maintenance, utility, and permit work performed on state trunk line on or after 10/1/2020 will require – Type IV Fluorescent Orange and Type IV White.
- Selected projects may require the use of the new sheeting on a project-by-project basis after the Frequently Used Special Provision is released for each cycle

Contractors may implement new fluorescent sheeting on drums and 42 inch channelizing devices prior to the above specific dates, as an “equal to or better than” substitution, at no additional cost to MDOT.

During the phase in period, the intermixing of drums and 42 inch channelizing devices with fluorescent orange sheeting and high intensity standard orange sheeting, on the same project will not be allowed.

Intermixing of drums and 42 inch channelizing devices with fluorescent sheeting from different companies of the same grade will be allowed.

Please contact the Work Zone Delivery Engineer for any additional guidance.

# GENERAL CONDITIONS

This permit is issued subject to the following General Conditions:

1. This permit grants to the permittee only those rights specifically stated and no other. Maintenance work within the trunkline right of way may require a separate permit unless authorized within the scope of the annual permit.

2. Issuance of this permit does not relieve permittee from meeting any and all requirements of law, or of other public bodies or agencies. The permittee shall be responsible for securing including but not limited to any other permissions including or required by law including but not limited to cities, villages, townships, corporations, or individuals for the activities hereby permitted.

3. The permittee agrees as a General Condition of this permit to:

   a. Have in the permittee's or the permittee's representative's possession on the job site at all times the approved permit, advanced notice and any necessary plans or sketches.

   b. Submit Advance Notice through the online Construction Permit System (CPS) at least five (5) working days prior to commencement of any operations covered by this permit. No work shall start until an approved Advance Notice is e-mailed to the permittee.

   c. Perform no work except emergency work, unless authorized by the Department (Michigan Department of Transportation [MDOT]), on Saturdays, Sundays, or from 3:00 p.m. on the day proceeding until the normal starting time the day after the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

   d. Perform no work except emergency work during periods of inclement weather when reduced visibility or slippery conditions impair trunkline traffic.

   e. Provide and maintain all necessary precautions to prevent injury or damage to persons and property from operations covered by this permit.

   f. Furnish, install and maintain all necessary traffic controls and protection during permittee's operations in accordance with the Michigan Manual of Uniform Traffic Control Devices and any supplemental specifications set forth herein.

   g. Once work is initiated that includes any lane restrictions, that work must be continued daily until completed. A lack of work activity for more than 3 days will require the removal of lane closures at no expense to the Department.

   h. Notify the Department of completion of work authorized by this permit through CPS, so that final inspection may be made and surety deposit released (where applicable). Surety deposit will not be released until the work authorized by the permit has been completed and inspected, and all inspection charges billable to the permittee are paid.

4. Nothing in this permit shall be construed to grant any rights whatsoever to any public utilities, except as to the consent herein specifically given, nor to impair any existing rights granted in accordance with the constitution or laws of this state.

5. Any operations in the trunkline right of way not covered by permit and the appropriate Department specifications are in violation of the jurisdictional authority of the Department, with respect to the control of the trunkline right of way, unless approved by the Department. Any change or alteration in the permit activities requires prior approval of the Department and may require a new permit.

6. Performance of the requirements of this permit is the responsibility of the permittee. The permittee shall complete all operations for which this permit is issued in accordance with the General Conditions and conditions of this permit, by the specified completion date. The permittee shall meet all requirements of the current Department Standard Specifications for Construction, and the Supplemental Specifications set forth on/or incorporated as a part of this permit.

7. The construction, operation and maintenance of the facility covered by this permit shall be performed without cost to the Department unless specified herein. The permittee shall be responsible for the cost of restoration of the state trunkline and right of way determined by the Department to be damaged as a result of the activities of the permittee.

8. Facilities allowed on state trunkline right of way shall be placed and maintained in a manner which will not impair the state trunkline or interfere with the reasonable safe and free flow of traffic. Failure of the permittee to maintain the facilities located within the State trunkline right of way so as not to interfere with the operation, maintenance or use of the state trunkline by the traveling public may result in revocation of the permit.

9. The permittee is solely and fully responsible for all activities undertaken pursuant to the permit. Any and all actions by the Department and those governmental bodies performing permit activities for the Department pursuant to a maintenance contract, including but not limited to any approved reviews and inspections of any nature, permit issuing, and final acceptance or rejection of the work or activity authorized by the permit shall not be construed as a warranty or assumption of liability on the part of the Department or those governmental bodies. It is expressly understood and agreed that any such actions are for the sole and exclusive purposes of the Department and the governmental bodies acting in a governmental capacity. Any such actions by the Department and governmental bodies will not relieve the permittee of its obligations hereunder, nor are such actions by the Department and the governmental bodies to be construed as a warranty as to the propriety of the permittee's performance.

   Note: The following General Condition does not apply to municipalities with executed resolutions on file with MDOT.

   The permittee shall indemnify, defend, and save harmless the State of Michigan, Michigan Transportation Commission, the Department and all officers, agents and employees thereof, and those governmental bodies performing permit activities for the Department and all officers, agents and employees thereof, pursuant to a maintenance contract, against any and all claims for damages arising from operations covered by this permit except claims resulting from the sole negligence or willful acts or omissions of said indemnities, its agent, or employees. In addition, permittee upon request shall furnish proof of insurance coverage for the term of this permit in an amount pre-specified.

10. The permittee or representative must ensure that all insurance policies and binders include an endorsement by which the insurer

agrees to notify the Department in writing at least 30 days before there is a cancellation or material change in coverage. The permittee or representative must stop operations if any insurance is cancelled or reduced and must not resume operations until new insurance is in force. The State of Michigan, Michigan Transportation Commission, Department of Transportation, and governmental bodies performing permit activities under a maintenance contract, and all officers, agents, and employees of all the above, for claims arising out of, under, or by reason of operations covered by the permits issued to the permittee.

11. This permit is not assignable and not transferable unless specifically agreed to by the Department.

12. The permittee, upon request of the Department, shall immediately remove, cease operations, and surrender this permit, or alter or relocate, at the permittee's own expense, the facility for which this permit is granted. Upon failure to do so, the Department may take any necessary action to protect the trunkline interest and the permittee shall reimburse the Department for its costs in doing same. The permittee expressly waives any right to claim damages or compensation in the event this permit is revoked.

13. The permittee shall, upon request by the Department, furnish a performance surety deposit in the form of a bond, cash, certified check, or (when authorized by the Department) an irrevocable letter of credit in such amount as deemed necessary by the Department to guarantee restoration of the trunkline highway or performance under the General Conditions and conditions of the permit.

14. The permittee hereby acknowledges and agrees that the Department has the right to demand completion by the permittee, or the performance surety, or to complete any uncompleted activity authorized by this permit which adversely affects the operation and/or maintenance of the state trunkline highway, or which is not completed by the expiration date of the permit, including:

    a. Completion of construction of driveway and/or approach (not authorized by annual permit).
    b. Removal of materials.
    c. Restoration of the trunkline facilities and right of way as necessary for the reasonably safe and efficient operations of the trunkline highway.

    The permittee further agrees to immediately reimburse the Department in full for all such costs incurred by the Department upon receipt of billing, and that upon failure to pay, the Department may affect payment with the performance surety deposit. Should the surety deposit be insufficient to cover expenses incurred by the Department, the permittee shall pay such deficiency upon billing by the Department. If the surety deposit exceeds the expense incurred by the Department, any excess will be returned or released to the depositor upon completion of the work to the satisfaction of the Department.

15. The Department reserves the right during the time any or all of the work is being performed to assign an inspector to protect the trunkline interest, and to charge the permittee all such costs incurred. In addition, the permittee may be billed any engineering and review fees incurred by the Department or its agent in connection with the work covered by this permit.

16. Emergency Operations: In time of disaster or emergency, or when utility lines or facilities are so damaged as to constitute a danger to life and/or property of the public, access to the same may be had by the most expeditious route. Work is to be completed in a manner which will provide the traveling public with maximum possible safety and minimize traffic distribution. Notice of such situations shall be given to the nearest police authority and the department as soon as can reasonably be done under the circumstances. During normal Department work hours, the facility owner shall advise the Department of any operations within right of way which affect traffic operations or the highway structure or facilities prior to performance of the work. After normal Department work hours, the permittee, at the beginning of the first working day after the emergency operation, shall advise the Department of any operations which affect traffic operations or the highway structures and facilities. If determined necessary by the Department, the permittee shall secure an individual permit for such work after notification.

17. Upon the Department's request, as built drawings of work performed will be furnished to the Department within 30 days after completion of the work.

18. The permittee shall give notice to public utilities in accordance with Act 174 of 2013, as amended, and comply with all applicable requirements of this act. The permittee shall also comply with requirements of Act 451, P.A. of 1994, as amended.

19. The permittee acknowledges that the Department is without liability for the presence of the permittee's facility which is located within the trunkline right of way. Acceptance by the Department of work performed, and/or notice of termination of performance obligations for the surety and/or the permittee do not relieve the permittee of full responsibility for the permittee's work or for the presence of the permittee's facility in the trunkline right of way.

20. Where the Department has accepted an Indemnification Commitment in lieu of bond and/or insurance policies, such commitment is incorporated into this permit by reference.

21. It is illegal to discharge substances other than storm water into the Department's storm sewer system unless permission has been obtained in writing for other discharges.

22. The permittee shall be responsible for obtaining information on permitted environmental site closures within MDOT right of way. MDOT has implemented a program that allows environmental contamination to remain within the right of way by use of a permit. Issued permit information can be obtained from the Region/TSC in which the permit is issued. If the permittee will encounter a site area identified as a site closure permit area, the permittee shall follow instructions and conditions set forth in Supplemental Specifications #3 and specifications found in form 2205-C, "Special Conditions for Underground Construction".

23. Other than for normal daily vehicle and equipment usage requirements, the permittee shall not use or store unattended equipment, or the following types of hazardous materials on, over, under, or immediately adjacent to Department or Local Agency owned buildings, bridges and structures, unless expressly approved by the Department in writing;

    Explosive, flammable gas, non-flammable gas, inhalation hazard, oxygen, flammable liquids, fuel oil, combustible, gasoline, flammable solids, spontaneously combustible, dangerous-when-wet, oxidizer organic peroxide, toxic, poisonous, inhalation hazard, infectious, radioactive, corrosive, or any other potentially hazardous material.

    Furthermore, the permittee shall not allow hazardous or unreasonably objectionable smoke, fumes, vapor, or odors to emit from any permitted operation. No junk, garbage, refuse or unused construction materials shall be stored or accumulated within the MDOT Right-of-Way.

24. It is the responsibility of the utility owner to provide the depth and location of their facilities within MDOT ROW upon the department's request.

## SUPPLEMENTAL SPECIFICATIONS

1. Construction and Maintenance of Facilities – To construct and maintain utility crossings of limited access highways, access for the utility's service vehicles may be from county roads, service roads, and openings authorized in limited access right of way fences. The construction of utilities across limited access highways should be for the purpose of serving a general area rather than providing individual services, unless extenuating circumstances necessitate such crossings.

   Equipment, vehicles or personnel will not operate within a distance of 30 feet from the edge of the pavement of roadways or ramps on limited access highways. At locations where utilities have been constructed in medians having a width greater than 80 feet or have otherwise been allowed to remain or to be constructed in limited access right of way, ingress and egress shall be by such routes as specified by the Department, which may also specify additional safety provisions.

2. Restoration- Restoration of the trunkline highway and right of way will be such that it will provide a condition equal to or better than the original condition, in accordance with Michigan Department of Transportation Standard Specifications.

3. Excavation and Disposal of Excavated Material – The permittee shall provide and place the necessary sheeting, shoring and bracing required to prevent caving, loss or settlement of foundation material supporting the pavement, or any other highway installation such as sewers, culverts, etc. The permittee shall assume the full responsibility for this protection and shall not proceed in these areas before approval of the methods by the Department.

   Construction equipment and excavating material shall not be stocked in such locations that it creates a traffic hazard or interferes with the flow of traffic; and on limited access highways, shall be a minimum of 30 feet from the traveled way. Sod and topsoil shall be stacked separately from other excavated material. The permittee shall dispose of all surplus and unsuitable material outside of the limits of the highway, unless the permit provides for disposal at approved locations within right of way. In the latter case, the material shall be leveled and trimmed in an approved manner.

   When the permittee is excavating within trunkline right of way and discovers existing contaminated soil and/or an abandoned underground storage tank, special permit specifications entitled "Special Conditions for Underground Construction" (Form 2205-C) shall apply.

4. Utility Cuts, Trenches and Pavement Replacement – Utility crossing by pavement cutting and removal are generally prohibited. If extenuating circumstances make tunneling, boring and jacking impractical pavement cutting may be used with approval of the Department. All utility cuts, trenching and pavement replacement shall comply with the requirements of the Standard Specifications and the Standard Plan "Utility Cuts, Trenches and Pavement Replacement". Unless otherwise specified, cuts in concrete residential and commercial drives shall be as above; except that the patch width shall be a minimum of 3 feet and the remaining slab from patch to existing joint shall be a minimum of 3 feet. Backfill shall be made with sand-gravel as specified in the Standard Specifications, unless otherwise directed. After the backfill has been placed and compacted by controlled density method, the pavement shall be replaced with new pavement of the original type and quality, unless at the season of the year when it is not feasible to replace pavement in kind. In this case, a temporary surface of bituminous material shall be placed with Department approval and later replaced with pavement of the original type at the applicant's expense. Other pavement types may be allowed with prior approval of the Department.

5. Crossing Roadbed by Tunneling or Boring and Jacking – All crossing of roadbed operations involving tunneling, boring and jacking shall comply with the Department's special provisions for such work.

6. Backfilling and Compacting Backfill – Unless otherwise specified, all trenches, holes and pits shall be filled with sound earth or with sand-gravel if so provided, placed in successive layers not more than 9 inches in depth, loose measure, and each layer shall be thoroughly compacted by tamping. All backfill compaction will be subject to check by the controlled density method.

7. Depth of Cover Method- Unless otherwise authorized, pipes shall be placed to a depth that will provide not less than 6 feet of cover between the top of the roadway surface and the pipe, 3 feet cover below the ditch line. All bores across MDOT highways that are 12" or larger will require a geotechnical report that complies with the General Conditions and conditions of the permit.

8. Trees:

   a. The permittee is responsible for obtaining permission from abutting owners when trimming or removing trees on easement right of way.
   b. Tree removal or trimming may be undertaken only after submission of an "Advance Notice" through CPS, a field review by the Region Resource Specialist and an approved copy of the advanced notice is e-mailed to the permittee.
   c. Limbs, logs, stumps and litter shall be disposed of in a manner acceptable to the Department.
   d. Tree roots shall be bored a distance of one foot for each one inch of trunk diameter for underground utility installations

9. Aerial Wire Crossings – Vertical clearance of wires, conductors and cables over state trunkline shall not be less than required by Section 232 of the National Electrical Safety Code, except in no case shall the under-clearance below any wire, conductor, or cable, under any temperature or loading condition, be less than eighteen feet (18').

Location Map
Legend
Road Work Ahead Sign with Sutinen Rd. Placard
US Hwy 41
Sutinen Rd
Sutinen Rd
Approx. Work Zone Limits for Grading and Placement of Aggregate
Road Work Ahead Sign with Sutinen Rd. Placard
Road Work Ahead Sign with Payne Rd. Placard
Payne Rd
Korhonen
Sutinen
Approx. Work Zone Limits for Grading and Placement of Aggregate
41
Road Work Ahead Sign with Payne Rd. Placard
Google Earth
N
1000 ft

Clear Form

Michigan Department
of Transportation
2207B (05/21)



# PERFORMANCE RESOLUTION FOR MUNICIPALITIES

*This Performance Resolution (Resolution) is required by the Michigan Department of Transportation for purposes of issuing to a Municipality an "Individual Permit for Use of State Highway Right of Way", and/or an "Annual Application and Permit for Miscellaneous Operations within State Highway Right of Way".*

RESOLVED WHEREAS, the Baraga County Road Commission
*(County, City, Village, Township, etc.)*
hereinafter referred to as the "MUNICIPALITY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utilities or other facilities, or to conduct other activities, on, over, and under State Highway Right of Way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the MUNICIPALITY agrees that:

1. Each party to this *Resolution* shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this *Resolution*, as provided by law. This *Resolution* is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.

2. If any of the work performed for the MUNICIPALITY is performed by a contractor, the MUNICIPALITY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the MUNICIPALITY Failure of the MUNICIPALITY to require its contractor to indemnify the DEPARTMENT, as set forth above, shall be considered a breach of its duties to the DEPARTMENT.

3. Any work performed for the MUNICIPALITY by a contractor or subcontractor will be solely as a contractor for the MUNICIPALITY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the MUNICIPALITY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the MUNICIPALITY.

4. The MUNICIPALITY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

5. The MUNICIPALITY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the MUNICIPALITY'S facilities according to a PERMIT issued by the DEPARTMENT.

6. With respect to any activities authorized by a PERMIT, when the MUNICIPALITY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

7. The incorporation by the DEPARTMENT of this *Resolution* as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

8. This *Resolution* shall continue in force from this date until cancelled by the MUNICIPALITY or the DEPARTMENT with no less than thirty (30) days prior written notice provided to the other party. It will not be cancelled or otherwise terminated by the MUNICIPALITY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the MUNICIPALITY.

Title and/or Name:

Douglas J. Mills, P.E., Engineer/Manager, Baraga CRC

Scott J. Swanson, Assistant Engineer, Baraga CRC

Greg Kingstrom, P.E., U.P. Engineers & Architects

I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by

the Board of County Road Commissioners
*(Name of Board, etc.)*

of the County of Baraga
*(Name of MUNICIPALITY)* *(County)*

at a regular meeting held on the 11th day

of April A.D. 2022.

Mary R. Bedner Digitally signed by Mary R. Bedner
Date: 2022.06.08 13:38:41 -04'00'
*Signed*

Clerk/Office Manager
*Title*

Mary R. Bedner
*Print Signed Name*

## MINIMUM MERGING TAPER LENGTH "L" (FEET)

| OFFSET | POSTED SPEED LIMIT, MPH (PRIOR TO WORK AREA) | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| FEET | 25 | 30 | 35 | 40 | 45 | 50 | 55 | 60 | 65 | 70 | |
| 1 | 10 | 15 | 20 | 27 | 45 | 50 | 55 | 60 | 65 | 70 | TAPER LENGTH "L" IN FEET |
| 2 | 21 | 30 | 41 | 53 | 90 | 100 | 110 | 120 | 130 | 140 | |
| 3 | 31 | 45 | 61 | 80 | 135 | 150 | 165 | 180 | 195 | 210 | |
| 4 | 42 | 60 | 82 | 107 | 180 | 200 | 220 | 240 | 260 | 280 | |
| 5 | 52 | 75 | 102 | 133 | 225 | 250 | 275 | 300 | 325 | 350 | |
| 6 | 63 | 90 | 123 | 160 | 270 | 300 | 330 | 360 | 390 | 420 | |
| 7 | 73 | 105 | 143 | 187 | 315 | 350 | 385 | 420 | 455 | 490 | |
| 8 | 83 | 120 | 163 | 213 | 360 | 400 | 440 | 480 | 520 | 560 | |
| 9 | 94 | 135 | 184 | 240 | 405 | 450 | 495 | 540 | 585 | 630 | |
| 10 | 104 | 150 | 204 | 267 | 450 | 500 | 550 | 600 | 650 | 700 | |
| 11 | 115 | 165 | 225 | 293 | 495 | 550 | 605 | 660 | 715 | 770 | |
| 12 | 125 | 180 | 245 | 320 | 540 | 600 | 660 | 720 | 780 | 840 | |
| 13 | 135 | 195 | 266 | 347 | 585 | 650 | 715 | 780 | 845 | 910 | |
| 14 | 146 | 210 | 286 | 374 | 630 | 700 | 770 | 840 | 910 | 980 | |
| 15 | 157 | 225 | 307 | 400 | 675 | 750 | 825 | 900 | 975 | 1050 | |

THE FORMULAS FOR THE MINIMUM LENGTH OF A MERGING TAPER IN DERIVING THE "L" VALUES SHOWN IN THE ABOVE TABLES ARE AS FOLLOWS:

$$"L" = \frac{W \times S^2}{60}$$ WHERE POSTED SPEED PRIOR TO THE WORK AREA IS 40 MPH OR LESS

"L" = S x W WHERE POSTED SPEED PRIOR TO THE WORK AREA IS 45 MPH OR GREATER

L = MINIMUM LENGTH OF MERGING TAPER
S = POSTED SPEED LIMIT IN MPH PRIOR TO WORK AREA
W = WIDTH OF OFFSET

| TYPES OF TAPERS | TAPER LENGTH |
|---|---|
| UPSTREAM TAPERS | |
| MERGING TAPER | L - MINIMUM |
| SHIFTING TAPER | 1/2 L - MINIMUM |
| SHOULDER TAPER | 1/3 L - MINIMUM |
| TWO-WAY TRAFFIC TAPER | 100 ' - MAXIMUM |
| DOWNSTREAM TAPERS (USE IS OPTIONAL) | 100 ' - MINIMUM (PER LANE) |

MDOT Michigan Department of Transportation
TRAFFIC AND SAFETY
MAINTAINING TRAFFIC TYPICAL

TABLES FOR "L", "D" AND "B" VALUES

| | | | |
|---|---|---|---|
| DRAWN BY: CON:AE:djf | JUNE 2006 PLAN DATE: | M0020a | SHEET 1 OF 2 |
| CHECKED BY: BMM | | | |
| FILE: K:/DGN/TSR/STDS/ENGLISH/MNTTRF/M0020a.dgn | REV. 08/21/2006 | | |

## DISTANCE BETWEEN TRAFFIC CONTROL DEVICES "D" AND LENGTH OF LONGITUDINAL BUFFER SPACE ON "WHERE WORKERS PRESENT" SEQUENCES

| "D" DISTANCES | POSTED SPEED LIMIT, MPH (PRIOR TO WORK AREA) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 25 | 30 | 35 | 40 | 45 | 50 | 55 | 60 | 65 | 70 |
| D (FEET) | 250 | 300 | 350 | 400 | 450 | 500 | 550 | 600 | 650 | 700 |

## GUIDELINES FOR LENGTH OF LONGITUDINAL BUFFER SPACE "B"

| SPEED* MPH | LENGTH FEET |
|---|---|
| 20 | 33 |
| 25 | 50 |
| 30 | 83 |
| 35 | 132 |
| 40 | 181 |
| 45 | 230 |
| 50 | 279 |
| 55 | 329 |
| 60 | 411 |
| 65 | 476 |
| 70 | 542 |

* POSTED SPEED, OFF PEAK 85TH PERCENTILE SPEED PRIOR TO WORK STARTING, OR THE ANTICIPATED OPERATING SPEED

1 BASED UPON AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) BRAKING DISTANCE PORTION OF STOPPING SIGHT DISTANCE FOR WET AND LEVEL PAVEMENTS (A POLICY ON GEOMETRIC DESIGN OF HIGHWAY AND STREETS), AASHTO. THIS AASHTO DOCUMENT ALSO RECOMMENDS ADJUSTMENTS FOR THE EFFECT OF GRADE ON STOPPING AND VARIATION FOR TRUCKS.

MDOT Michigan Department of Transportation

TRAFFIC AND SAFETY

MAINTAINING TRAFFIC TYPICAL

TABLES FOR "L", "D" AND "B" VALUES

| | | | |
|---|---|---|---|
| DRAWN BY: CON:AE:djf | JUNE 2006 | M0020a | SHEET 2 OF 2 |
| CHECKED BY: BMM | PLAN DATE: | | |
| FILE: K:/DGN/TSR/STDS/ENGLISH/MNTTRF/M0020a.dgn | REV. 08/21/2006 | | |

# LOG OF JOB

# LOG OF JOB (SUTINEN ROAD AND PAYNE ROAD)

This project consists of two separate locations requiring various repairs. The two locations are located on Sutinen Road and Payne Road in Baraga Township. The repairs in general consist of machine grading to achieve a 2% crown, aggregate surface course placement and traffic control work.

ERFO 8 - Sutinen Road: The project begins at the US-41 intersection with Sutinen Road (P.O.B. station 0+00), the work zone proceeds east along Sutinen Road approximately 2650' (P.O.E. station 26+50).

ERFO 9 - Payne Road: The project begins at the US-41 intersection with Payne Road (P.O.B. station 0+00), the work zone proceeds east on Payne Road approximately 21+50' (P.O.E. station 21+50).

All areas shall be graded such that drainage is maintained to adjacent ditches and slopes are re-established to promote positive drainage to these drainage areas.

All work shall be performed according to the MDOT 2020 Standard Specifications for Construction, the project log, details, and as directed by the Engineer.

## Description of Work

## Road Restoration:

ERFO 8 - Sutinen Road:

The limits for Machine Grading along Sutinen Road include the entire existing gravel road width, from the P.O.B to the P.O.E. for each of the project segments shown below. Machine Grading consists of grading the existing gravel surface to develop the minimum 2% cross slope as shown on the typical cross section plan sheet and as described in the log of job. Machine Grading shall consist of scarifying, shaping, moving, and compacting and existing road surface to develop the desired cross section. Loading or hauling material is not required for Machine Grading. This work shall be done prior to placement of aggregate surface course. Machine Grading shall be paid for by the station, measured horizontally along the centerline of the road. Machine Grading shall be done in accordance with Section 205 of the 2020 Standard Specifications for Construction.

The limits for Aggregate Surface Course along Sutinen Road include the entire existing gravel road width, from P.O.B. to P.O.E. Aggregate 23A shall be installed at a 3-inch thickness, as described herein. Aggregate Surface Course will consist of loading, hauling, placing, grading and compaction of material, to develop the cross section described herein. Aggregate Surface Course shall be installed in accordance with Section 306 of the 2020 Standard Specifications for Construction.

Project Segments – ERFO 8 – Sutinen Road:

Segment #1 - Sta 0+95 to Sta 9+45
Stations: 8.50
Road Width: 20 feet

Segment #2 - Sta 9+45 to Sta 12+80
Stations: 3.35
Road Width: 20 feet

Segment #3 - Sta 12+80 to Sta 17+05
Stations: 4.25
Road Width: 18 feet

Segment #4 - Sta 17+05 to Sta 25+45
Stations: 8.40
Road Width: 16 feet

ERFO 9 - Payne Road:

The limits for Machine Grading along Payne Road include the entire existing gravel road width, from the P.O.B to the P.O.E. for each of the project segments shown below. Machine Grading consists of grading the existing gravel surface to develop the minimum 2% cross slope as described in the log of job. Machine Grading shall consist of scarifying, shaping, moving and compacting and existing road surface to develop the desired cross section. Loading or hauling material is not required for Machine Grading. This work shall be done prior to placement of aggregate surface course. Machine Grading shall be paid for by the station, measured horizontally along the centerline of the road. Machine Grading shall be done in accordance with Section 205 of the 2020 Standard Specifications for Construction.

The limits for Aggregate Surface Course along Payne Road include the entire existing gravel road width, from P.O.B. to P.O.E. Aggregate 23A shall be installed at a 3 inch thickness, as described herein. Aggregate Surface Course will consist of loading, hauling, placing, grading and compaction of material, to develop the cross section described herein. Aggregate Surface Course shall be installed in accordance with Section 306 of the 2020 Standard Specifications for Construction.

Project Segments – ERFO 9 – Payne Road:

Segment #1 - Sta 1+20 to Sta 5+00
Stations: 3.80
Road Width: 22 feet

Segment #2 - Sta 5+00 to Sta 7+50
Stations: 2.50
Road Width: 20 feet

Segment #3 - Sta 7+50 to Sta 10+00
Stations: 2.50
Road Width: 18 feet

Segment #4 - Sta 10+00 to Sta 16+00
Stations: 6.00
Road Width: 18 feet

Segment #5 - Sta 16+00 to Sta 22+40
Stations: 6.40
Road Width: 16 feet

**Maintaining Traffic:**

All work to maintain traffic shall be done in accordance with Section 812 of the 2020 Standard Specifications for Construction, and the Michigan Manual of Uniform Traffic Control Devices (MMUTCD), 2011 edition as revised.

ERFO 8 - Sutinen Road:
The Contractor shall place advanced warning signs in all directions of the project location. Traffic must be maintained throughout the duration of the project. Traffic control shall be conducted in accordance with and as described in the Maintaining Traffic Special Provision.

ERFO 9 - Payne Road:
The Contractor shall place advanced warning signs in all directions of the project location. Traffic must be maintained throughout the duration of the project. Traffic control shall be conducted in accordance with and as described in the Maintaining Traffic Special Provision.

**Estimated Quantities**

**ERFO 8 - Sutinen Road:**

| | | |
|---|---|---|
| Mobilization, Max 5% | 1 | LSUM |
| Machine Grading | 24.5 | Sta |
| Aggregate Surface Cse | 650 | Ton |
| Minor Traf Devices | 1 | LSUM |
| Sign, Type B, Temp, Prismatic, Furn | 52 | Sft |
| Sign, Type B, Temp, Prismatic, Oper | 52 | Sft |

**ERFO 9 - Payne Road:**

| | | |
|---|---|---|
| Mobilization, Max 5% | 1 | LSUM |
| Machine Grading | 21.2 | Sta |
| Aggregate Surface Cse | 550 | Ton |
| Minor Traf Devices | 1 | LSUM |
| Sign, Type B, Temp, Prismatic, Furn | 52 | Sft |
| Sign, Type B, Temp, Prismatic, Oper | 52 | Sft |

**GENERAL PLAN NOTES**

The improvements in this proposal shall be done in accordance with Michigan Department of Transportation's 2020 Standard Specifications for Construction as well as applicable Standard Plans, Special Details and Special Provisions.

**Underground Utilities**

For protection of underground utilities and in accordance with 2013 PA 174, the Contractor must notify Miss Dig at least 3 working days, excluding Saturdays, Sundays and holidays, before beginning each excavation in areas where public utilities have not been previously located. Utility members will thus be routinely notified. This does not relieve the Contractor of its responsibility to notify utility owners identified in the contract that are not part of the Miss Dig alert system.

**Survey**

All government corners on this project shall be preserved at the expense of the Contractor, whether shown or not.

**Stationing**

Mile Points and Stationing on this project was determined by using a measuring wheel and electronic distance measuring unit (DMI). Locations noted may vary slightly. The Owner/Engineer will mark the limits of work in the field upon request.

**Standard Specifications**

Improvements covered by these plans shall be in accordance with the Michigan Department of Transportation 2020 Standard Specifications for Construction.

## NOTES APPLYING TO STANDARD PLANS

| **Standard Plan Description** | **Detail** |
|---|---|
| Soil Erosion and Sedimentation Control Measures | R-96-E |
| Grading Cross Sections | R-105-D |

| **Traffic and Safety Standards** | **Detail** |
|---|---|
| Ground Driven Sign Supports for Temp Signs | WZD-100-A |
| Temporary Traffic Control Devices | WZD-125-E |